

## **NOTICES OF PROPOSED RULEMAKING**

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

### **NOTICE OF PROPOSED RULEMAKING**

#### **TITLE 9. HEALTH SERVICES**

#### **CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION**

##### **PREAMBLE**

#### **1. Sections Affected**

#### **Rulemaking Action**

R9-1-101	Amend
R9-1-102	Repeal
R9-1-102	New Section
R9-1-103	Repeal
R9-1-103	New Section
R9-1-104	Repeal
R9-1-105	Repeal
R9-1-106	Repeal
R9-1-107	Repeal
R9-1-108	Repeal
R9-1-109	Repeal
R9-1-110	Repeal
R9-1-111	Repeal
R9-1-112	Repeal
R9-1-113	Repeal
R9-1-114	Repeal
R9-1-115	Repeal
R9-1-116	Repeal
R9-1-117	Repeal
R9-1-118	Repeal
R9-1-119	Repeal
R9-1-120	Repeal
R9-1-121	Repeal
R9-1-201	Repeal
R9-1-201	New Section
R9-1-202	Repeal
R9-1-202	New Section
R9-1-203	Repeal
R9-1-203	New Section
R9-1-204	Repeal
R9-1-204	New Section
R9-1-205	Repeal
R9-1-206	Repeal
R9-1-311	Amend
R9-1-312	Repeal
R9-1-312	New Section
R9-1-313	Repeal
R9-1-314	Repeal
R9-1-315	Repeal

#### **2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 36-104(4), 36-136(A)(4), 36-136(F), and 41-1003

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Implementing statutes: A.R.S. §§ 36-107, 41-1029, 41-1032, 41-1033, 41-1092.08, and 41-1092.09

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

None

**4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Kathleen Phillips  
Rules Administrator  
Arizona Department of Health Services  
1740 W. Adams Street, Room 102  
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphilli@hs.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department completed a five-year review of these rules and the five-year review report was approved by the Governor's Regulatory Review Council on September 14, 1999. This rulemaking addresses the issues identified in that five-year review report that require initiating a rule package for Articles 1, 2 and 3. The Department will repeal R9-1-102 through R9-1-117, R9-1-119, and R9-1-121 because the Department no longer has statutory authority to hold hearings. The Legislature has granted that authority to the Office of Administrative Hearings, under A.R.S. § 41-1092.01. The Department will also amend R9-1-101, repeal R9-1-118 and R9-1-120, and will add two new Sections. One new Section will contain criteria for parties to follow, if they wish to object to the decision on an appealable agency action, made by an administrative law judge. In the second new Section, the Department will provide criteria for those parties to follow who wish to request a review or rehearing of that decision. The new Sections will comply with current statutes and conform to current rulemaking format and style requirements. The Department will also amend R9-1-201 through R9-1-206, to conform to current rulemaking format and style requirements. The Department will repeal R9-1-311, R9-1-312, and R9-1-314, and will add two new Sections that provide definitions, and specify under what circumstances and for what purposes medical information may be released by the Department. Finally, the Department will repeal R9-1-313 and R9-1-315, as they contain information that is not properly contained in rules.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting materials:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

Annual costs/revenues changes are designated as minimal when less than \$1,000, moderate when between \$1,000 and \$10,000, and substantial when \$10,000 or greater in additional costs or revenues.

The Department will bear moderate costs for promulgating and enforcing the rules. Costs for promulgating the rules include staff time to write, review, and direct the rules through the rulemaking process. The cost of enforcing the rules are not expected to be any different than before the rulemaking. The majority of the rules in Article 1 are being repealed because the Department no longer has statutory authority to hold hearings. The substance of the two new rules come from R9-1-118 and R9-1-120, but have been redrafted to reflect statutory changes and to be clear, concise and understandable. The new rules in Article 2 also contain the same information that was previously in Article 2, but reflect statutory changes, and have been reworded to be clear, concise and understandable. Most of the language that was previously in Article 3 has been removed because it was not regulatory language. The new rule in Article 3 includes the same information that was previously in R9-1-314, but has been redrafted to be clear, concise and understandable.

Therefore the Department will not be enforcing any new regulations and there should be no additional costs.

There is no economic impact to large or small businesses by the amendments.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen Phillips  
Rules Administrator  
Arizona Department of Health Services

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1740 W. Adams Street, Room 102  
Phoenix, Arizona 85007

Telephone: (602) 542-1264  
Fax: (602) 364-1150  
E-mail: kphilli@hs.state.az.us

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has not scheduled oral proceedings. However, under A.R.S. § 41-1023, a person may request an oral proceeding by making a written request to the agency personnel listed in item #9 above, by 5:00 p.m., March 25, 2001. Additionally, a person may send written comments on the proposed rules to the agency personnel listed in item #9 above, by 5:00 p.m., March 25, 2001, which is the close of record date.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporation by reference and their location in the rules:**

Not applicable

**13. The full text of the rule follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 1. DEPARTMENT OF HEALTH SERVICES - ADMINISTRATION**

**ARTICLE 1. RULES OF PRACTICE AND PROCEDURE**

Section

- R9-1-101. Definitions
- R9-1-102. ~~Initiation of a hearing~~ Objection to a recommended decision
- R9-1-103. ~~Denial of a request for hearing~~ Rehearing or review of a final administrative decision
- R9-1-104. ~~Hearing officer; disqualification; substitution~~ Repealed
- R9-1-105. ~~Communications regarding matters related to a contested hearing~~ Repealed
- R9-1-106. ~~Representation~~ Repealed
- R9-1-107. ~~Notice of hearing or prehearing conference~~ Repealed
- R9-1-108. ~~Prehearing conference, procedure and prehearing order~~ Repealed
- R9-1-109. ~~Pleadings, briefs, motions~~ Repealed
- R9-1-110. ~~Filing; computation of time; extension of time~~ Repealed
- R9-1-111. ~~Record of hearings~~ Repealed
- R9-1-112. ~~Service; proof of service~~ Repealed
- R9-1-113. ~~Default~~ Repealed
- R9-1-114. ~~Intervention~~ Repealed
- R9-1-115. ~~Subpoenas~~ Repealed
- R9-1-116. ~~Procedure at hearing~~ Repealed
- R9-1-117. ~~Evidence~~ Repealed
- R9-1-118. ~~Recommended decision; Director's decision~~ Repealed
- R9-1-119. ~~Director's decision~~ Repealed
- R9-1-120. ~~Rehearing or review of decision~~ Repealed
- R9-1-121. ~~Effectiveness of orders~~ Repealed

**ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING**

Section

- R9-1-201. ~~Agency record~~ Definitions
- R9-1-202. ~~Petition for adoption of rule~~ Rulemaking record
- R9-1-203. ~~Public comments~~ Petition for a rule, review of a rule, an agency practice, or a substantive policy statement
- R9-1-204. ~~Oral proceedings~~ Petition for delayed effective date
- R9-1-205. ~~Petition for delayed effective date~~ Repealed
- R9-1-206. ~~Written criticism of rule~~ Repealed

**ARTICLE 3. DISCLOSURE OF ~~INFORMATION AND~~ MEDICAL RECORDS**

Section

- R9-1-311. Definitions
- R9-1-312. ~~Prohibition against disclosure~~ Information which may be disclosed
- R9-1-313. ~~Authority for refusal to disclose~~ Repealed
- R9-1-314. ~~Information which may be disclosed~~ Repealed
- R9-1-315. ~~Confidentiality of information received from or through the federal government~~ Repealed

**ARTICLE 1. RULES OF PRACTICE AND PROCEDURE**

**R9-1-101. Definitions**

**A.** In this ~~Article~~ Chapter, unless the context otherwise requires specified:

1. "Attorney General" means the Attorney General of the state of Arizona and his designees. "Day" means a calendar day, and excludes the:
  - a. Day of the act, or event, from which a designated period of time begins to run, and
  - b. Last day of the period if a Saturday, Sunday, or official state holiday, in which case the Department shall consider the next business day to be the last day.
2. "Complaint" means a formal written charge, brought by the Department after investigation, inspection or review to initiate formal proceedings.
3. ~~2.~~ "Department" means the Arizona Department of Health Services.
4. ~~3.~~ "Director" means the Director of the Arizona Department of Health Services or his designees an individual designated by the Director.
4. "Rule" has the same meaning as in A.R.S. § 41-1001(17).
5. "Hearing officer" means an individual appointed by the Director pursuant to A.R.S. § 36-112(A) to conduct hearings or other proceedings.
6. "Interested person" means any individual or organization permitted by statute or rule to make a statement at a hearing but lacking sufficient interest to be admitted as a party.
7. "Party" means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. ~~<DIV>~~

**B.** In this Article, unless otherwise specified:

1. "Administrative law judge" has the same meaning as in A.R.S. § 41-1092.
2. "Appealable agency action" has the same meaning as in A.R.S. § 41-1092.
3. "Contested case" has the same meaning as in A.R.S. § 41-1001.
4. "Final administrative decision" has the same meaning as in A.R.S. § 41-1092.
5. "Party" has the same meaning as in A.R.S. § 41-1001.
6. "Recommended decision" means the written ruling made by an administrative law judge regarding a contested case or appealable agency action within 20 days after a hearing under A.R.S. §§ 41-1092.07

**R9-1-102. Initiation of a hearing Objection to a recommended decision**

**A.** A hearing may be initiated only by the Department or by a person whose legal rights, duties, or privileges are required by statute, rule or as otherwise provided by law to be determined after an opportunity for a hearing.

**B.** A hearing shall be initiated in the manner provided by the statute or rule authorizing the hearing.

1. When a hearing is initiated by a request for hearing served upon the Department, the request for hearing shall be in writing and shall clearly cite:
  - a. The specific actions of the Department which are the basis of the hearing request; and
  - b. The statute or rule entitling the person to a hearing.
2. Whenever the Department initiates a hearing, the Director shall serve a copy of the notice of proceedings on the named parties. The notice shall comply with A.R.S. § 41-1061(B) and shall be signed by the Director.

**A.** Upon receipt of a copy of a recommended decision for a contested case or an appealable agency action, the Director may mail a copy of the recommended decision to each party. ~~<DIV>~~ ~~<DIV>~~

**B.** A party has ten days from the date the Director mails the recommended decision to submit a memorandum of objections that states each reason why the recommended decision is in error, with information supporting the reason.

**C.** The Director may consider the memorandum of objections in determining whether to accept, reject, or modify the recommended decision.

**R9-1-103. ~~Denial of request for hearing~~ Rehearing or review of a final administrative decision**

If the Director denies the request for hearing, the Department shall provide to the applicant a written copy of the decision stating the reasons for denial. ~~<DIV>~~ ~~<DIV>~~

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- A.** A party who is aggrieved by the final administrative decision may file with the Director, not later than 30 days after service of the final administrative decision, a written motion for rehearing or review of the decision specifying the grounds for rehearing or review.
- B.** A party filing a motion for rehearing or review under this rule may amend the motion at any time before it is ruled upon by the Director. Any other party may file a response to the motion for rehearing or review within 15 days after the date the motion is filed with the Director. The director may require that the parties file supplemental memoranda explaining the issues raised in the motion and may permit oral argument.
- C.** The Director may grant a rehearing or review of the final administrative decision for any of the following reasons materially affecting the requesting party's rights:
  - 1. Irregularity in the proceedings of the hearings or an abuse of discretion, which deprived the party of a fair hearing.
  - 2. Misconduct by the administrative law judge or by the prevailing party.
  - 3. Accident or surprise which could not have been prevented by ordinary prudence.
  - 4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing.
  - 5. Excessive or insufficient penalties.
  - 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing, or
  - 7. That the findings of fact or decision is not supported by the evidence or is contrary to law.
- D.** The Director shall rule on the motion within 15 days after the response to the motion is filed. If no response to the motion is filed, the Director shall rule on the motion within 5 days after the expiration of the response period.
- E.** An order issued by the Director granting a rehearing or review shall specify the grounds for the rehearing or review.

**R9-1-104. ~~Hearing officer; disqualification; substitution~~ Repealed**

- A.** ~~The Director or a designee may serve as hearing officer.~~
- B.** ~~Any hearing officer is subject to disqualification. Any party may petition under A.R.S. § 36-112(B) for the disqualification of a hearing officer within five days of receipt of notice indicating the hearing officer's identity or upon discovering facts indicating grounds for disqualification.~~
- C.** ~~The Director shall appoint a substitute hearing officer to replace a disqualified or unavailable hearing officer.~~

**R9-1-105. ~~Communications regarding matters related to a contested hearing~~ Repealed**

~~The parties, legal counsel and any person who may be affected by the outcome of a contested case shall not communicate with the Director, Department personnel who assist the Director in rendering a decision, or the hearing officer concerning any matter related to the proceeding prior to a final decision and order, except in the presence of all parties or their counsel or, if in writing, with copies to the Department, the Attorney General and all parties. Anyone receiving a prohibited communication shall promptly file a copy of written communication or summary of oral communication with the Department and serve copies of the same on each party and the Attorney General. The hearing officer shall give all other parties reasonable opportunity to respond to the communication.~~

**R9-1-106. ~~Representation~~ Repealed**

~~Any party may participate in the hearing in person or through legal counsel, except that a person other than an individual shall be represented by an attorney. A partnership may appear through any partner and an association through a key administrator or other executive officer. A party shall pay for its own legal representation.~~

**R9-1-107. ~~Notice of hearing or prehearing conference~~ Repealed**

- A.** ~~The hearing officer shall set the time and place of the hearing or prehearing conference and give written notice to all parties and to all persons who have filed written petitions to intervene in the matter.~~
- B.** ~~The notice shall contain:~~
  - 1. ~~The official file or other reference number, the name of the proceeding, and a general description of the subject matter;~~
  - 2. ~~The time, place and nature of the prehearing conference or hearing;~~
  - 3. ~~A statement of the legal authority and jurisdiction under which the prehearing conference and the hearing are to be held;~~
  - 4. ~~The name, official title, mailing address and telephone number of the hearing officer for the prehearing conference or hearing;~~
  - 5. ~~A statement that a party who fails to attend or participate in a prehearing conference, hearing or other stage of a hearing may be held in default; and~~
  - 6. ~~The names and mailing addresses of persons to whom notice is being given, including any counsel or employee who has been designated to appear for the Department.~~
- C.** ~~The notice may include any other matters that the hearing officer considers desirable to expedite the proceedings.~~

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**R9-1-108. Prehearing conference, procedure and prehearing order Repealed**

- A.** Any party may request a prehearing conference. The hearing officer shall determine whether a prehearing conference is necessary to deal with matters listed in subsection (B) of this Section. The hearing officer shall promptly notify the Department and the parties as provided in R9-1-107 if a prehearing conference is to be held.
- B.** The hearing officer shall conduct the prehearing conference to deal with settlement, stipulations, clarification of issues, rulings on identity and limitation of the number of witnesses, objections to proffers of evidence, use of written presentation for direct evidence, rebuttal evidence, or cross-examination; use of telephone, television, or other electronic means as a substitute for proceedings in person; order of presentation of evidence and cross-examination, rulings regarding issuance of subpoenas, discovery orders and protective orders; and such other matters as will promote the orderly and prompt conduct of the hearing. The hearing officer shall issue a prehearing order incorporating the matters determined at the prehearing conference.
- C.** The hearing officer may conduct all or part of the prehearing conference by telephone, television, or other electronic means so long as each participant in the conference has an opportunity to participate during the entire proceeding.
- D.** If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the pleadings, to regulate the conduct of the proceedings. <DIV><DIV>

**R9-1-109. Pleadings, briefs, motions Repealed**

The hearing officer, at appropriate stages of the proceedings:

1. shall give all parties full opportunity to file pleadings, motions, objections and offers of settlement.
2. may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law. <DIV><DIV>

**R9-1-110. Filing, computation of time, extension of time Repealed**

- A.** The Director shall maintain a docket of all proceedings and shall assign each proceeding a number.
- B.** All papers in any proceeding shall be filed in the office of the Director, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007, within the time limit, if any, for such filing. Papers may be transmitted by ordinary or express mail, or otherwise delivered, but must be timely received at the Office of the Director. Service thereof shall be made simultaneously on all parties to the proceeding. A document shall be considered to be filed on the date received by the Director, established by the date stamp of the Director's Office of Administrative Counsel on its face.
- C.** Unless otherwise specifically provided in the rules or by an order of the Department, an original and one copy of all papers shall be filed.
- D.** Wherever these rules provide a specific limitation as to the time within which any papers are required to be filed with the Department in any proceeding, an additional period of seven days shall be available for parties who reside outside of Arizona.
- E.** In computing any period of time prescribed or allowed by these rules, the day of the act, event or default after which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is Saturday, Sunday or a state holiday, in which event the period runs until the end of the next day which is neither Saturday, Sunday, nor a state holiday. The computation shall include intermediate Saturdays, Sundays and holidays.
- F.** For good cause shown, the hearing officer may grant continuances and extensions of time. <DIV><DIV>

**R9-1-111. Record of hearings Repealed**

The Director shall maintain a complete and separate record containing all documents and exhibits filed in connection with each hearing. Such record shall be made available upon request to the public during regular business hours. <DIV><DIV>

**R9-1-112. Service, proof of service Repealed**

- A.** Service of process shall be required with respect to documents under this article. The party responsible for filing the document shall serve it. The original shall be filed with and retained by the Department and a copy shall be served on each party. Service shall be complete at the time of personal service, the date indicated on the return receipt if served by certified mail, or the date when placed in the mail if served by regular mail.
- B.** The following shall establish proof of service:
1. If transmitted by certified mail, the return of the signed return receipt; or
  2. If personally served, filing with the Department a sworn affidavit stating when, how and by whom the document was served and the date of such service.
- C.** Requirements for service of documents shall be:
1. For complaints, notices of hearing or prehearing conference, decisions or final orders of the Director, transmission either by personal service or by certified mail to the correct address of record; if served on a corporation, partnership, or association, delivery to the statutory agent, corporate officer, partner, owner or co-owner, or appropriate agent.
  2. For all other documents, either by personal service, or by certified or regular mail to the correct address of record.
  3. When a party is represented by an attorney, service shall be made on such attorney. <DIV><DIV>

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**R9-1-113. Default Repealed**

- A.** ~~If a party fails to attend or participate in a prehearing conference, hearing, or other stage of a hearing, the hearing officer may serve upon all parties a proposed default order, including a statement of the grounds, with regard to the non-participating party.~~
- B.** ~~Within seven days after service of a proposed default order:~~
- ~~1. The party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon.~~
  - ~~2. The hearing officer may adjourn the proceedings or conduct them without the party against whom a proposed default order was issued, maintaining due regard for the interests of justice and the orderly and prompt conduct of the proceedings.~~
- C.** ~~The hearing officer shall either issue or vacate the default order promptly after expiration of the time specified in subsection (B) or upon filing of the motion.~~
- D.** ~~After issuing a default order, the hearing officer shall conduct any further proceedings necessary to complete the adjudication without the defaulting party and shall determine all issues in the hearing, including those affecting that party.~~

**R9-1-114. Intervention Repealed**

- A.** ~~A person seeking to intervene in any hearing shall file a petition for intervention, specifying why the petition should be granted.~~
- B.** ~~Requirements for petitions for intervention are:~~
- ~~1. A petition shall be filed with the Department and served upon all parties at least 15 days prior to the hearing.~~
  - ~~2. A petition shall demonstrate that the petitioner's legal interests may be substantially affected by the hearing.~~
  - ~~3. Any party may file a response to the petition for intervention within five days of service of the petition upon the party. A copy of the response shall be served upon each party.~~
- C.** ~~The hearing officer shall consider the following in deciding on the petition:~~
- ~~1. Whether the proposed petition for intervention is in the interests of justice.~~
  - ~~2. Whether it may unduly delay or prejudice the hearing.~~
  - ~~3. Whether the applicant's interest is represented by any other party to the hearing.~~
- D.** ~~The hearing officer shall decide on the petition for intervention at least three days prior to the hearing date and shall promptly notify the petitioner and all parties of the decision. The hearing officer may continue a hearing or provide for a prehearing conference or both to give a party sufficient time to prepare for the hearing or to file a response to the petition.~~
- E.** ~~The hearing officer may limit the intervenor's participation to issues in which the intervenor has a particular interest as demonstrated in the petition.~~

**R9-1-115. Subpoenas Repealed**

- A.** ~~The hearing officer may issue a subpoena pursuant to A.R.S. § 41-1062(A)(4), either at the hearing officer's discretion or at the request of any party. The hearing officer may decline to issue a subpoena for irrelevant, immaterial or cumulative evidence.~~
- B.** ~~A request for subpoena shall be in writing, filed with the Department and served on each party at least seven days prior to the date set for hearing and shall state:~~
- ~~1. The identification of the person or document requested;~~
  - ~~2. All addresses at which the subpoena shall be served; and~~
  - ~~3. The facts expected to be established by the person or document subpoenaed, which are necessary for a determination of relevancy and materiality.~~
- C.** ~~If more than two subpoenas are requested to establish a single fact in dispute, the request for subpoena must state the reason why the additional subpoena is not merely repetitive.~~
- D.** ~~The person to whom a subpoena is directed shall comply with its provisions unless, prior to the date set for hearing, the hearing officer grants a written request to quash or modify the subpoena. The request shall briefly, but thoroughly, state the reasons therefor. The hearing officer shall grant or deny such request by order.~~
- E.** ~~The party requesting the subpoena shall serve it upon the person to whom it is directed.~~

**R9-1-116. Procedure at hearing Repealed**

~~At a hearing:-~~

- ~~1. The hearing officer shall regulate the course of the proceedings and shall conform with any prehearing order.~~
- ~~2. To enable disclosure of relevant facts and issues, the hearing officer shall give all parties the opportunity to testify, respond, present evidence and argument, present witnesses, conduct examination and cross-examination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the prehearing order.~~
- ~~3. The hearing officer may give nonparties an opportunity to present, under oath, oral or written statements. The hearing officer shall give all parties an opportunity to cross-examine the witness, challenge or rebut the statement.~~
- ~~4. The hearing officer may conduct all or part of the hearing by telephone, television or other electronic means, so long as each party or interested party has an opportunity to participate in the entire proceeding as it takes place.~~

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5. All hearings are open to public observation, except where closed pursuant to an express provision of law. A hearing conducted by telephone, television or other electronic means shall be made available to members of the public by the opportunity, during regular office hours, to hear or inspect the record of the Department, and to inspect any transcript of the hearing obtained by the Department. <DIV><DIV>

**R9-1-117. Evidence Repealed**

- A.** All witnesses at a hearing shall testify under oath or affirmation. All parties shall have the right to present such oral or documentary evidence and to conduct such cross examination as may be required for a full and true disclosure of the facts. The hearing officer shall receive relevant, probative and material evidence, rule upon offers of proof, and exclude all evidence the hearing officer has determined to be irrelevant, immaterial or unduly repetitious. The hearing officer shall admit the kind of evidence on which reasonably prudent people would rely, even if it would be inadmissible in a civil court trial.
- B.** Unless otherwise ordered by the hearing officer, documentary evidence shall be limited in size when folded to 8 1/2 x 11 inches. The submitting party shall furnish a copy of each documentary exhibit to each party of record present, and three additional copies shall be furnished to the Department, unless the Department or hearing officer otherwise directs. When relevant and material matter offered in evidence by any party appears in a larger work, containing other information, the party shall plainly designate the offered matter. If the other matter is in such volume as would unnecessarily encumber the record, such book, paper or document shall not be received in evidence but may be marked for identification and, if properly authenticated, the relevant and material matter may be read into or photocopied for the record. All documentary evidence offered shall be subject to appropriate and timely objection. When ordered by the hearing officer, the parties shall exchange copies of exhibits prior to or at the hearing. <DIV><DIV>

**R9-1-118. Recommended decision; Director's decision Repealed**

- A.** If the hearing officer is the Director, the hearing officer shall render a decision.
- B.** If the hearing officer is not the Director, the hearing officer shall render a recommended decision pursuant to A.R.S. § 36-112(C).
- C.** A decision or recommended decision shall include separately stated findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Director's discretion, including the reasoning for the remedy recommended.
- D.** Findings of fact shall be as required by A.R.S. § 41-1061(G). The experience, technical competence, or specialized knowledge of the hearing officer may be utilized in evaluating evidence.
- E.** If a substitute hearing officer is appointed under Section R9-1-104, the substitute hearing officer shall use any existing record and may conduct further appropriate proceedings in the interests of justice.
- F.** The hearing officer may allow the parties a designated amount of time after the hearing to submit proposed findings.
- G.** A recommended decision pursuant to this Section shall be rendered within 30 days after conclusion of the hearing or after submission of proposed findings under subsection (F), unless the Director waives or extends this period for good cause.
- H.** The recommended decision shall be delivered to the Director.
- I.** The Director may transmit a copy of the recommended decision to each party who shall then have ten days from the date of service to file a memorandum of objections or exceptions to it. The memorandum shall detail reasons why the recommended decision is in error, with appropriate citations to the record, statutes, rules and other authority. The Director may consider such memorandum in making a decision but shall not consider untimely or unsupported memoranda. A recommended decision shall not be subject to a request for review, rehearing or judicial review.

**R9-1-119. Director's decision Repealed**

Within 30 calendar days after either receipt of any recommended decision from the hearing officer or the final day for filing a memorandum of comments or exceptions to the recommended decision, together with any sufficient, timely exceptions filed, the Director shall issue a decision as provided in A.R.S. § 36-112(C). When the Director is the hearing officer, the decision shall be issued within 60 days following the final day of the hearing. <DIV><DIV>

**R9-1-120. Rehearing or review of decision Repealed**

- A.** Except as provided in subsection (E), any party to a hearing before the Department who is aggrieved by a decision rendered in such case may file with the Director, not later than 15 days from the date of service of the decision, a written request for rehearing or review of the decision. The request shall specify the particular grounds for rehearing or review. The requesting party shall serve copies upon all other parties in compliance with Section R9-1-112.
- B.** A request for rehearing or review under this rule may be amended at any time before it is ruled upon by the Director. Any party may file a response to the request for rehearing or review within ten days after service of the request on that party. The Director may require the filing of written argument on the issues raised in the motion and may provide for oral argument.
- C.** A rehearing or review of the decision may be granted for any of the following causes which materially affect the requesting party's rights:



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1. Irregularity in the hearing of the Department or its hearing officer or the prevailing party, or any order or abuse of discretion, whereby the requesting party was deprived of a fair hearing;
  2. Misconduct of the Department, its hearing officer or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
  5. Excessive or insufficient penalties;
  6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
  7. The decision is not justified by the evidence or is contrary to law.
- D.** The Director may affirm or modify the decision or grant a rehearing to the requesting party on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the grounds on which the rehearing is granted, and the rehearing shall cover only those matters specified. All parties to the hearing may participate as parties at any rehearing.
- E.** The Director may, on his own initiative, order a rehearing or review of a decision within 15 days after a decision is rendered, for any reason for which a rehearing on motion of a party might have been granted. The order granting such a rehearing shall specify the grounds therefor. <DIV><DIV>

**R9-1-121. Effectiveness of orders Repealed**

- A.** Unless otherwise stated in the Director's decision, a decision becomes a final order, in accordance with Section R9-1-119, as follows:
1. When the decision is rendered, if further review is unavailable;
  2. Fifteen days after service of the decision, if no party has filed a petition for review or reconsideration.
- B.** Unless otherwise stated in the final order, the final order is effective on the date of service upon a party.

**ARTICLE 2. PUBLIC PARTICIPATION IN RULEMAKING**

**R9-1-201. Agency record Definitions**

The official rulemaking record is located in the Office of the Director and may be reviewed any working day, Monday through Friday, from 8:00 a.m. until 5:00 p.m. except state holidays.

In this Article, unless otherwise specified:

- A.** "Rulemaking record" means a file maintained by the Department as specified in A.R.S. § 41-1029.
- B.** "Oral proceeding" means a public gathering, held by the Department, for the purpose of receiving comment and answering questions about a proposed rule.
- C.** "Substantive policy statement" has the same meaning as in A.R.S. § 41-1001(20).

**R9-1-202. Petition for adoption of rule Rulemaking record**

- A.** A petition to adopt, amend or repeal a rule, pursuant to A.R.S. § 41-1033, shall be filed with the Director as prescribed in this Section. Each petition shall contain:
1. The name and current address of the person submitting the petition;
  2. For the adoption of a new rule, the specific language of the proposed rule;
  3. For the amendment of a current rule, the citation for the applicable A.A.C. number and title. Included in the request shall be the specific language of the current rule; any language to be deleted shall be stricken through but legible, and any new language shall be underlined;
  4. For the repeal of a current rule, the citation for the applicable A.A.C. number and title of the rule proposed for repeal.
  5. The reasons the rule should be adopted, amended or repealed, specifically stating in reference to an existing rule, why the rule is inadequate, unreasonable, unduly burdensome, or otherwise not acceptable. Additional supporting information for the petition may be provided, including:
    - a. Any statistical data or other justification, with clear references to attached exhibits;
    - b. An identification of what persons or segment of the public would be affected and how they would be affected; and
    - c. If the petitioner is a public agency, a summary of relevant issues raised in any public hearing, or any written comments offered by the public.
  6. The signature of the person submitting the petition.

Except for a state holiday, an individual may review a rulemaking record at the Office of the Director, Monday through Friday, from 8:00 a.m. until 5:00 p.m.

**R9-1-203. Public comments Petition for a rule; review of a rule, an agency practice or a substantive policy statement**

- A.** Any person may comment upon a rule proposed by the Department by submitting written comments on the proposed rule to the Director.
- B.** Any document is considered to have been submitted on the date it is received by the Department. If a document is mailed, the date of receipt shall be the postmarked date.

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- ~~C.~~ All written comments received pursuant to A.R.S. § 41-1023 shall be considered by the Department.
- A.** As directed in A.R.S. § 41-1033, an individual submitting a petition to the Department to make a rule shall include the following on the petition:
1. The name and address of the individual submitting the petition;
  2. An identification of the rule;
  3. The suggested language of the rule;
  4. The reason why a new rule should be made with supporting information, including:
    - a. Statistical data with references to attached exhibits, and
    - b. An identification of each individual who would be affected by the rule and how the individual would be affected;
  5. The signature of the individual submitting the petition; and
  6. The date the petition is signed.
- B.** As directed in A.R.S. § 41-1033, an individual submitting a petition to the Department requesting that the Department review an agency practice or substantive policy statement that the individual alleges constitutes a rule shall include the following on the petition:
1. The name and address of the individual submitting the petition.
  2. The reason the individual alleges the agency practice or substantive policy statement constitutes a rule.
  3. The signature of the individual submitting the petition, and
  4. The date the petition is signed.
- C.** An individual that submits a petition identified in subsection (B) shall attach a copy of the substantive policy statement or a description of the agency practice to the petition.
- D.** The Director shall notify the individual who filed the petition identified in subsection (A) or (B) of the Department's decision in writing within seven days of receipt of the petition.

**R9-1-204. Oral proceedings Petition for delayed effective date**

- A.** Requests for oral proceedings, as prescribed in A.R.S. § 41-1023(B), shall:
1. Be filed with the Director;
  2. Include the name and current address of the person making the request; and
  3. Refer to the proposed rule and include, if known, the date and issue of Register in which the notice was published.
- B.** The oral proceeding shall be recorded either by an electronic recording device or stenographically, and any resulting cassette tapes or transcripts, registers and all written comments received shall become part of the official record.
- C.** The presiding officer shall utilize the following guidelines to conduct oral proceedings:
1. Voluntary registration of attendees.
  2. Registration of persons intending to speak. Registration information shall include the registrant's name, representative capacity, if applicable, a notation of their position with regard to the proposed rule and the approximate length of time they wish to speak.
  3. Opening of the record. The presiding officer shall open the proceeding by identifying the rules to be considered, the location, date, time and purpose of the proceeding, and present the agenda.
  4. A statement by Department representatives. The statement shall explain the background and general content of the proposed rules.
  5. A public oral comment period. Comments may be limited to a reasonable time period, as determined by the presiding officer. Oral comments may be limited to prevent undue repetition.
  6. Closing remarks. The presiding officer shall announce the location where the written public comments are to be received and the date and time of the close of record.
- A.** The Department may approve a delayed effective date for a rule if good cause exists and the public interest will not be harmed, under A.R.S. § 41-1032. An individual may file a petition to delay the effective date of the rule with the Director. The petition shall contain the:
1. Name and address of the individual submitting the petition;
  2. Identification of the proposed rule;
  3. Length of delay requested;
  4. Specific circumstances why there is good cause for delaying the effective date, including the undue hardship or other adverse impact that may result if the petition for a delayed effective date is not granted;
  5. Specific circumstances why the public interest will not be harmed by the delayed effective date;
  6. Economic impact of the delay; and
  7. Signature of the individual submitting the petition.
- B.** The Department shall make a decision regarding the petition and notify the individual who filed the petition of the decision in writing within seven days of receipt of the petition.

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**R9-1-205. ~~Petition for delayed effective date~~ Repealed**

- A.** A written petition to delay the effective date of the rule, pursuant to A.R.S. § 41-1032 shall be filed with the Director. The petition shall contain:
1. The name and current address of the person submitting the petition;
  2. Identification of the proposed rule;
  3. The need for the delay, specifying the undue hardship or other adverse impact that may result if the request for a delayed effective date is not granted, and the reasons why the public interest will not be harmed by the later date; and
  4. The signature of the person submitting the petition.

**R9-1-206. ~~Written criticism of rule~~ Repealed**

- A.** Any person may file a written criticism of an existing rule with the Director.
- B.** The criticism shall clearly identify the rule addressed and specify why the existing rule is inadequate, unduly burdensome, unreasonable or otherwise considered to be improper.
- C.** The Director shall acknowledge receipt of any criticism within ten working f days and shall place the criticism in the official record for review by the Department pursuant to A.R.S. § 41-1054.

**ARTICLE 3. DISCLOSURE OF ~~INFORMATION AND~~ MEDICAL RECORDS**

**R9-1-311. Definitions**

- A.** "Medical information", as used in this Article, shall include all clinical records, medical reports, laboratory statements or reports, any file, film, record or report or oral statement relating to diagnostic findings and treatment of patients, as well as information relating to contacts, suspects and associates of communicable disease patients.
- B.** "Employee", as used in this Article, shall include all officers and employees of the Department and of any local health department, including those who may be loaned or assigned by the Department or local health departments by another governmental or private health agency and including consultants paid on a fee basis by the Department or a local health department.
- C.** "Department" means the Arizona Department of Health Services.
- D.** "Local health department", as used in this Article, means any district, county or city health department or any combination thereof.
- E.** "Director" means the Director of the Department of Health Services.

In this Article, unless otherwise specified:

1. "Medical record" means all communications listed in A.R.S. § 12-2291(4) that are created for the purpose of patient treatment.
2. "Employee" means an individual who works for the Department for compensation.
3. "Human Subjects Research Committee" means individuals designated by the Director to review and approve the release of medical information.
4. "Legal guardian" means an individual appointed by court order under A.R.S. Title 14, Chapter 5 or Title 36, Chapter 5, or similar proceedings in another state or jurisdiction when the guardianship has been validated by Arizona law.
5. "Parent" means a biological or adoptive mother or father of an individual.
6. "Volunteer" means an individual who works for the Department without compensation.

**R9-1-312. ~~Prohibition against disclosure~~ Disclosure of a Medical Record**

No disclosure by any employee of any medical information in his possession or in the possession of the Department or of any local health department which relates to any identifiable individual or his family shall be made, directly or indirectly, except as authorized in this Article.

- A.** Except as authorized in subsection B, an employee or volunteer shall not disclose a medical record the employee or volunteer has obtained or has access to as a result of being employed by or volunteering with the Department that allows an individual to be identified.
- B.** Unless otherwise prescribed by law, an employee or volunteer may disclose a medical record:
1. If an individual who is 18 years of age or older is identified in the medical record, only with the written permission of the individual.
  2. If an individual who is under 18 years old or is incompetent is identified in the medical record, only with written permission from the individual's parent or legal guardian;
  3. To the surviving spouse or legal representative of an individual's estate, upon written request;
  4. At the direction of the Director, or the Department's Human Subjects Research Committee, where the medical record sought is for a scientific or medical research purpose; or
  5. As required by a court order issued by a court of competent jurisdiction.

**R9-1-313. ~~Authority for refusal to disclose~~ Repealed**

~~Any request or demand for medical information, disclosure of which is forbidden by this Article, shall be declined upon the authority of this Article and A.R.S. §§ 36-107 and 36-136(G)(18). If any employee is sought to be required, by subpoena or~~

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otherwise, to produce such medical information, he shall respectfully decline to present or divulge the same, basing his refusal upon the provisions of law and this Article prescribed thereunder and shall through established administrative channels seek the advice of the appropriate county attorney or the Attorney General.

**~~R9-1-314. Information which may be disclosed~~ Repealed**

~~Medical information required by R9-1-312 to be kept confidential is hereby authorized to be disclosed in the following cases and for the following purposes:~~

- ~~1. At the request or with the permission of the person or persons concerning whom the medical information directly relates. If such a person is a minor or an incompetent, such request or permission shall be obtained from his parent or guardian.~~
- ~~2. Any medical information relating to the death of a person may be furnished to his surviving spouse or relative or the legal representative of his estate upon the written request of such qualified person.~~
- ~~3. With proper administrative approval, to any physician, nurse or other paramedical personnel or to any officer or employee of any federal, state or local government or non-profit institution or foundation who, acting in his official capacity and within the scope of his employment, has, within the reasonable discretion of a properly authorized employee who is disclosing or has been requested to disclose such information, a valid purpose for acquiring the same, which purpose is consistent with the administration of a project or program under or with the assistance of the Department, or a local health department or which purpose is to provide medical care to the individual concerned or suspected contacts of such individuals.~~
- ~~4. Where the purpose for which the medical information is sought is not inconsistent with the objectives and purposes of the Department or a local health department and if Departmental administration permits, the Director or in the case of a local health department, the director thereof, may authorize the disclosure of any such information.~~
- ~~5. Authorization for disclosure of information pursuant to this regulation shall not be relied upon to contravene the intent of any statute which specifically prohibits the disclosure of certain information.~~

**~~R9-1-315. Confidentiality of information received from or through the federal government~~ Repealed**

~~Notwithstanding anything in this Article to the contrary, any medical information contained in the records of this Department, the source of which is the Secretary of the U.S. Department of Health, Education and Welfare of any person acting under him or from any provider of services acting as such pursuant to U.S. Public Law 89-97 and any amendments thereto, shall be disclosed only as provided by federal law and the rules and regulations promulgated thereunder.~~

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSURE**

**ARTICLE 1. GENERAL**

**PREAMBLE**

- |  |  |
|--|--|
| <b><u>1. Sections Affected</u></b>   | <b><u>Rulemaking Action</u></b>  |
| R9-10-122  | Amend  |
| <br><b><u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u></b> |  |
| Authorizing statutes: A.R.S. § 36-136(F) and 36-405(C)   |  |
| Implementing statute: A.R.S. § 36-405(C)(3)  |  |
| <br><b><u>3. A list of all previous notices appearing in the Register addressing the proposed rule</u></b>   |  |
| Notice of Rulemaking Docket Opening: 7 A.A.R. 5447, December 7, 2001   |  |
| <br><b><u>4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u></b>  |  |
| Name:  | Kathleen Phillips, Rules Administrator   |
| Address:   | Department of Health Services<br>1740 W. Adams, Suite 102<br>Phoenix, AZ 85007 |
| Telephone:   | (602) 542-1264   |
| Fax:   | (602) 542-1150   |

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E-mail: kphilli@hs.state.az.us  
or  
Name: Mary Wiley, Assistant Director  
Address: Department of Health Services  
Assurance and Licensure Services  
1647 E. Morten, Suite 220  
Phoenix, AZ 85020  
Telephone: (602) 674-4200  
Fax: (602) 861-0645  
E-mail: mwiley@hs.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The rule implements A.R.S. § 36-405(C)(3), which requires the Department of Health Services (Department) to establish and collect an initial license and renewal license fee from a health care institution. A.R.S. § 36-405(C)(3) establishes a range of initial license and renewal license fees that shall be collected by the Department. The Department has determined that a rule is necessary to establish the exact fee, within the range established in statute, that will be collected. The rule establishes the exact initial license and renewal license fee that the Department will collect from a health care institution.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The rule will impose initial one-time costs to the Department of approximately \$24,537.00 and annual ongoing costs to the Department of approximately \$8,976.00. The initial one-time costs include purchasing four computer work stations, notifying health care institutions of the license fees, updating the Department's database, and training staff in the collection and processing of initial license and renewal license fees. Annual ongoing costs include collecting and processing initial license and renewal license fees each year. The Department is allotted, through the State General Fund, 37.5 full time employees in 4 licensing programs, at a cost of approximately \$2,030,609.00, to inspect, license, and regulate approximately 3,293 health care institutions in Arizona.

The rule will impose an annual cost under \$1,000.00 upon approximately 87% of Arizona's 3,293 licensed health care institutions. Approximately 13%, or 253, of Arizona's health care institutions will experience an annual cost above \$1,000.00, with the highest annual cost for a health care institution to renew a health care institution license being \$3,620.00.

The rule should not impose a cost or benefit to a political subdivision.

The rule may impose a cost upon consumers if the initial license and renewal license fees, borne by health care institutions, are passed along to consumers as higher health care costs.

While the rule imposes moderate costs upon the Department and minimal to moderate costs upon businesses that operate health care institutions, it is not anticipated that the costs to the Department or to business will result in an impact upon private or public employment.

The cost of the rule to small businesses that operate health care institutions is the same as the cost to other businesses that operate health care institutions.

The rule will increase state revenues by approximately \$846,903.00 each year.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen Phillips, Rules Administrator  
Address: Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007  
Telephone: (602) 542-1264

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Fax: (602) 542-1150  
E-mail: kphilli@hs.state.az.us  
or  
Name: Mary Wiley, Assistant Director  
Address: Department of Health Services  
Assurance and Licensure Services  
1647 E. Morten, Suite 220  
Phoenix, AZ 85020  
Telephone: (602) 674-4200  
Fax: (602) 861-0645  
E-mail: mwiley@hs.state.az.us

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has scheduled the following oral proceedings:

1. Wednesday, April 3, 2002  
1:00 p.m.  
400 West Congress, Room 158, North Building  
Tucson, Arizona 85701
2. Thursday, April 4, 2002  
2:00 p.m.  
Department of Health Services  
1647 East Morten Avenue, Hearing Room  
Phoenix, Arizona 85020
3. Friday, April 5, 2002  
10:30 a.m.  
Flagstaff Public Library  
300 West Aspen, Program Room  
Flagstaff, Arizona 86001

Written comments on the proposed rulemaking or the preliminary summary of the economic, small business, and consumer impact statement may be submitted until the close of record, Friday, April 5, 2002 at 5:00 p.m. to either individual listed in items #4 and #9.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their locations in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSURE**

**ARTICLE 1. GENERAL**

Section

R9-10-122. Fees

**ARTICLE 1. GENERAL**

**R9-10-122. Fees**

**A.** An applicant who submits to the Department architectural plans and specifications for the construction or modification of a health care institution shall also submit an architectural drawing review fee as follows:

1. Fifty dollars for a project with a cost of less than \$100,000;

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2. One hundred dollars for a project with a cost of \$100,000 but less than \$500,000; or
3. One hundred fifty dollars for a project with a cost of \$500,000 or more.
- B.** An applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department an application fee of \$50.00.
- C.** Except as provided in subsection (D) or (E), an applicant submitting an initial application or a renewal application for a health care institution license shall submit to the Department a license fee as follows:
  1. For a facility with no licensed capacity, \$100.00;
  2. For a facility with a licensed capacity of one to 59 beds, \$100.00, plus the licensed capacity times \$10.00;
  3. For a facility with a licensed capacity of 60 to 99 beds, \$200.00 plus the licensed capacity times \$10.00;
  4. For a facility with a licensed capacity of 100 to 149 beds, \$300.00, plus the licensed capacity times \$10.00; or
  5. For a facility with a licensed capacity of 150 beds or more, \$500.00, plus the licensed capacity times \$10.00.
- D.** A person who has paid a health care institution license fee for a facility and submits a behavioral health service agency application for the same facility shall submit an application fee but is not required to submit an additional license fee.
- E.** Subsection (C) does not apply to a health care institution operated by a state agency according to state or federal law or to adult foster care residential settings.
- ~~C-E.~~ All fees are nonrefundable except as provided in A.R.S. § 41-1077.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSURE**

**PREAMBLE**

- |                                    |                                 |
|------------------------------------|---------------------------------|
| <b><u>1. Sections Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| R9-10-101                          | New Section                     |
| R9-10-102                          | New Section                     |
| R9-10-103                          | New Section                     |
| R9-10-104                          | New Section                     |
| R9-10-105                          | New Section                     |
| R9-10-107                          | New Section                     |
| R9-10-108                          | New Section                     |
| R9-10-109                          | New Section                     |
| R9-10-110                          | New Section                     |
| R9-10-111                          | Repeal                          |
| R9-10-111                          | New Section                     |
| R9-10-112                          | Repeal                          |
| R9-10-113                          | Repeal                          |
| R9-10-114                          | Repeal                          |
| R9-10-116                          | Repeal                          |
| R9-10-117                          | Repeal                          |
| R9-10-121                          | Repeal                          |
| R9-10-123                          | Repeal                          |
| R9-10-124                          | Repeal                          |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**  
Authorizing statutes: A.R.S. §§ 36-132(A) and 36-136(F)  
Implementing statutes: A.R.S. §§ 36-405, 36-406, 36-407, 36-421, 36-422, 36-424, and 36-425
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 8 A.A.R. 655, February 15, 2002
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Kathleen Phillips, Rules Administrator   |
| Address:   | Department of Health Services<br>1740 W. Adams, Suite 102<br>Phoenix, AZ 85007 |
| Telephone: | (602) 542-1264   |

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Fax: (602) 542-1150  
E-mail: kphilli@hs.state.az.us  
or  
Name: Mary Wiley, Assistant Director  
Address: Department of Health Services  
Assurance and Licensure Services  
1647 E. Morten, Suite 220  
Phoenix, AZ 85020  
Telephone: (602) 674-4200  
Fax: (602) 861-0645  
E-mail: mwiley@hs.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

A.R.S. § 36-405(A) requires the Director of the Department of Health Services to adopt rules necessary for establishing minimum standards and requirements for the construction, modification, and licensure of health care institutions necessary to assure public health, safety, and welfare. A.R.S. § 36-405(B) grants the Director the authority to classify and subclassify health care institutions according to character, size, range of services provided and standard of patient care required for the purposes of licensure. A.R.S. § 36-421 requires an applicant for an initial health care institution license to submit architectural plans and specifications with an initial application. A.R.S. § 36-422 sets forth application requirements for health care institutions.

The rules in 9 A.A.C. 10, Article 1, adopted effective February 4, 1981, set forth the legal authority, intent and purpose of the Article in addition to definitions applicable to the Chapter, health care institution classes and subclasses, and requirements for unclassified health care institutions, documentation, transfers, general licensure, and initial and renewal applications. The rules do not comply with the requirements for licensing time-frames in A.R.S. §§ 41-1072 through 41-1079 or current rulemaking format and style requirements and contain passive, outdated, ambiguous, and nonspecific language.

In addition, subsequent to the adoption of 9 A.A.C. 10, Article 1, the authorizing statutes were amended in 1983, 1985, 1986, 1987, 1988, 1989, 1990, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2001. Consequently, there are discrepancies between the authorizing statutes and the rules. There are no provisions in the current rules implementing the requirements in A.R.S. § 36-421, which combines the permit process and the initial license application process; A.R.S. § 36-424(C), which requires the Director to accept a copy of a health care institution's accreditation report in lieu of all licensing inspections; and A.R.S. § 36-425(B), which allows a license to be valid for up to two years if the health care institution has no deficiencies during renewal licensing inspections. The rules are also inconsistent with A.R.S. § 36-422(F), which allows a single group license for an accredited hospital that includes accredited facilities located separately from the main hospital building and A.R.S. § 36-422(G), which allows a single license for a county-operated accredited hospital when the county's population is more than one million including accredited facilities located separately from the main hospital.

The Department is proposing rules that are consistent with statutory requirements, comply with current rulemaking format and style requirements, and reflect current industry practice and Department policy.

**6. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**7. Reference to any study that the agency relied on and its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The rules benefit the Department and impose substantial one-time costs and substantial ongoing annual costs upon the Department. The rules benefit the Department by establishing clear, current, and accurate information and by conforming to statute and the Department's current practice. Implementing time-frame rules will impose substantial initial one-time costs upon the Department of approximately \$21,620. These initial one-time costs include staff training, review and revision of the Department's license applications, and the development and installation of computer software to track compliance with license time-frame rules. Implementing time-frame rules will also impose substantial annual ongoing costs upon the Department which, the Department estimates, will be approximately \$15,734 each year. The annual ongoing costs include data entry, tracking and monitoring data, generating letters of administrative completeness, and generating and analyzing reports.



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The rules should not benefit or cost a political subdivision of this state.

The rules benefit business, specifically the operators of the approximately 2,300 health care institutions that are impacted by the rule. The clear, current, and accurate information contained in the rules may reduce business transaction costs that include time contacting the Department to obtain current and accurate information. While the savings in transaction costs to each individual provider may be minimal, the collective savings that may be realized across all 2,300 health care institutions that are impacted by the rule could be substantial.

The rules impose substantial costs upon the Department and may impact public employment if the Department requires additional staff to implement the rules.

The impact of the rules upon small business, as defined in A.R.S. § 41-1001(19), is the same as the impact on business, described above. However, the rule does not require an assisted living home to submit architectural plans and specifications, which are typically developed by a professional architect. Instead, an assisted living home is required to submit a site plan and a floor plan in lieu of architectural plans and specifications from a professional architect. Assisted living homes serve 10 or fewer individuals, are typically in private neighborhoods, and are almost always a small business. While the requirements for an architectural drawing review are appropriate for large health care institutions, those requirements are not appropriate for small homes in private neighborhoods.

The rules do not directly cost or benefit private persons or consumers. Private persons or consumers may indirectly benefit from the rules if transaction cost savings realized by operators of health care institutions are passed along to consumers as lower health care costs.

The rules may impact state revenues if the Department requires additional state funds to implement time-frame rules. State revenues may also be impacted if the Department fails to comply with time-frame requirements and is required by state law to refund licensing fees.

Providing clear, current, and accurate information on the content of applications for a health care institution license, conforming rules to statute and current Department practice, and complying with statutory time-frame requirements is, the Department believes, the least costly and intrusive method of achieving the purpose of the rulemaking.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen Phillips, Rules Administrator  
Address: Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007  
Telephone: (602) 542-1264  
Fax: (602) 542-1150  
E-mail: kphilli@hs.state.az.us

or

Name: Mary Wiley, Assistant Director  
Address: Department of Health Services  
Assurance and Licensure Services  
1647 E. Morten, Suite 220  
Phoenix, AZ 85020  
Telephone: (602) 674-4200  
Fax: (602) 861-0645  
E-mail: mwiley@hs.state.az.us

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule.**

The Department has scheduled the following oral proceedings:

Date: Wednesday, April 3, 2002  
Time: 1:00 p.m.  
Location: Arizona Department of Health Services  
400 W. Congress, North Building, Room 158  
Tucson, AZ 85701

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Date: Thursday, April 4, 2002  
Time: 2:00 p.m.  
Location: Arizona Department of Health Services  
Division of Assurance and Licensure Services  
1647 E. Morten, Hearing Room  
Phoenix, AZ 85020

Date: Friday, April 5, 2002  
Time: 10:30 a.m.  
Location: Flagstaff Public Library  
300 W. Aspen, Program Room  
Flagstaff, AZ 86001

Written comments on the proposed rulemaking or the preliminary summary of the economic, small business, and consumer impact may be submitted to the individuals listed in items #4 and #9 until the close of record on April 5, 2002 at 5:00 p.m.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their locations in the rules:**

Not applicable

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 10. DEPARTMENT OF HEALTH SERVICES - HEALTH CARE INSTITUTIONS: LICENSURE**

**ARTICLE 1. GENERAL**

Section

- R9-10-101. ~~Reserved~~ Definitions
- R9-10-102. ~~Reserved~~ Health Care Institution Classes and Subclasses; Requirements
- R9-10-103. ~~Reserved~~ Licensure Exceptions
- R9-10-104. ~~Reserved~~ Approval of Architectural Plans and Specifications
- R9-10-105. ~~Reserved~~ Initial License Application
- R9-10-107. ~~Reserved~~ Renewal License
- R9-10-108. ~~Reserved~~ Time-frames
- R9-10-109. ~~Reserved~~ Changes Affecting a License
- R9-10-110. ~~Reserved~~ Enforcement Actions
- R9-10-111. Legal Authority Denial, Revocation, or Suspension of a License
- R9-10-112. ~~Intent and purpose of this Article~~ Repealed
- R9-10-113. ~~Definitions~~ Repealed
- R9-10-114. ~~Classifications~~ Repealed
- R9-10-116. ~~Documentation~~ Repealed
- R9-10-117. ~~Transfer to another subclass~~ Repealed
- R9-10-121. ~~General requirements for licensure~~ Repealed
- R9-10-123. ~~Initial application~~ Repealed
- R9-10-124. ~~Renewal application~~ Repealed

**ARTICLE 1. GENERAL**

**R9-10-101. Reserved Definitions**

In addition to the definitions in A.R.S. § 36-401(A), the following definitions apply in this Chapter unless otherwise specified:

1. "Accredited" means accredited by a nationally recognized accreditation organization.
2. "Administrative completeness review time-frame" means the number of days from agency receipt of an application for a license until the agency determines that the application contains all components required by statute or rule, including all information required to be submitted by other government agencies. The administrative completeness

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*review time-frame does not include the period of time during which an agency provides public notice of the license application or performs a substantive review of the application.*

3. "Administrative office" means a location used by personnel for recordkeeping and record retention but not for providing medical services, nursing services, or health-related services.
4. "Adult day health care facility" means a facility providing adult day health services during a portion of a continuous twenty-four hour period for compensation on a regular basis for five or more adults not related to the proprietor.
5. "Applicant" means a governing authority requesting:
  - a. Approval of architectural plans and specifications of a health care institution.
  - b. Licensure of a health care institution, or
  - c. A change in a health care institution's license.
6. "Application packet" means the information, documents, and fees required by the Department for the:
  - a. Approval of a health care institution's modification or construction, or
  - b. Licensure of a health care institution.
7. "Assisted living center" means an assisted living facility that provides resident rooms or residential units to eleven or more residents.
8. "Assisted living facility" means a residential care institution, including adult foster care, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuing basis.
9. "Behavioral health service agency" has the same meaning as in A.A.C. R9-20-101.
10. "Certification" means a written statement that an item or a system complies with the applicable requirements incorporated by reference in R9-1-412.
11. "Certified health physicist" means an individual recognized by the American Board of Health Physics as complying with the health physics criteria and examination requirements established by the American Board of Health Physics.
12. "Change in ownership" means conveyance of the ability to appoint, elect, or otherwise designate a health care institution's governing authority from an owner of the health care institution to another person.
13. "Chief administrative officer" means the individual implementing a governing authority's direction in a health care institution.
14. "Contractor" has the same meaning as in A.R.S. § 32-1101.
15. "Construction" means the building, erection, fabrication, or installation of a health care institution.
16. "Day" means calendar day.
17. "Department" means the Arizona Department of Health Services.
18. "Directed care services" means programs and services, including personal care services, provided to persons who are incapable of recognizing danger, summoning assistance, expressing need or making basic care decisions.
19. "Equipment" means an apparatus, a device, a machine, or a unit that is required to comply with the specifications incorporated by reference in R9-1-412.
20. "Facilities" means buildings used by a health care institution for providing any of the types of services as defined in [A.R.S. Title 36, Chapter 4].
21. "Factory-built building" has the same meaning as in A.R.S. § 41-2142.
22. "Governing authority" means the individual, agency, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution are vested.
23. "Health care institution" means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health screening services, other health-related services, supervisory care services, personal care services or directed care services and includes home health agencies as defined in section 36-151 and hospice service agencies.
24. "Health-related services" means services, other than medical, pertaining to general supervision, protective, preventive and personal care services, supervisory care services or directed care services.
25. "Home health agency" means an agency or organization, or a subdivision of such an agency or organization, which meets all of the following requirements:
  - a. Is primarily engaged in providing skilled nursing services and other therapeutic services.
  - b. Has policies, established by a group of professional personnel, associated with the agency or organization, including one or more physicians and one or more registered professional nurses, to govern the services referred to in subsection (25)(a), which it provides, and provides for supervision of such services by a physician or registered professional nurse.
  - c. Maintains clinical records on all patients.
26. "Hospice" means a hospice service agency or the provision of hospice services in an inpatient facility.
27. "Hospital" has the same meaning as in R9-10-201.
28. "Inpatient bed" means accommodations with supporting services, such as food, laundry and housekeeping, for patients or residents who generally stay in excess of twenty-four hours.
29. "Leased facility" means a facility occupied or used during a set time in exchange for compensation.
30. "License" means:

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- a. Written approval issued by the Department to a person to operate a class or subclass of health care institution, except for a behavioral health service agency, at a specific location;
- b. Written approval issued by the Department to a person to operate a behavioral health service agency subclass or behavioral health service agency subclasses at a specific location; or
- c. Written approval issued to an individual to practice a profession in this state.
- 31. "Licensee" means an owner approved by the Department to operate a health care institution.
- 32. "Medical services" means the services pertaining to medical care that are performed at the direction of a physician on behalf of patients by physicians, dentists, nurses and other professional and technical personnel.
- 33. "Mobile clinic" means a movable structure that:
  - a. Is not attached to a health care institution's facility,
  - b. Provides outpatient medical services under the direction of a health care institution's personnel; and
  - c. Is not intended to remain in one location indefinitely.
- 34. "Modification" means the substantial improvement, enlargement, reduction, alteration of or other change in a health care institution.
- 35. "Nursing care institution" means a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician.
- 36. "Nursing services" means those services pertaining to the curative, restorative and preventive aspects of nursing care that are performed at the direction of a physician by or under the supervision of a registered nurse licensed in this state.
- 37. "Outpatient surgical center" means a type of health care institution with facilities and limited hospital services for the diagnosis or treatment of patients by surgery whose recovery, in the concurring opinions of the surgeon and the anesthesiologist, does not require inpatient care in a hospital.
- 38. "Outpatient treatment center" means a class of health care institution without inpatient beds that provides medical services for the diagnosis and treatment of patients.
- 39. "Overall time-frame" means the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license. The overall time-frame consists of both the administrative completeness review time-frame and the substantive review time-frame.
- 40. "Owner" means a person who appoints, elects, or designates a health care institution's governing authority.
- 41. "Patient" means an individual receiving medical services, nursing services, or health-related services from a health care institution.
- 42. "Person" has the same meaning as in A.R.S. § 1-215 and includes governmental agencies.
- 43. "Personal care services" means assistance with activities of daily living that can be performed by persons without professional skills or professional training and includes the coordination or provision of intermittent nursing services and the administration of medications and treatments by a nurse who is licensed pursuant to title 32, chapter 15 or as otherwise provided by law.
- 44. "Personnel" means, except as defined in specific Articles in this Chapter or 9 A.A.C. 20, individuals providing medical services, nursing services, or health-related services to a patient.
- 45. "Premises" means property that is licensed by the Department as part of the health care institution where medical services, nursing services, or health-related services are provided to a patient.
- 46. "Project" means specific construction or modification of a facility stated on an architectural plans and specifications approval application.
- 47. "Provisional license" means written approval to operate a health care institution issued by the Department to an applicant or licensee that is not in substantial compliance with the applicable laws and rules for the health care institution.
- 48. "Recovery care center" means a health care institution or subdivision of a health care institution that provides medical and nursing services limited to recovery care services.
- 49. "Residential care institution" means a health care institution other than a hospital or a nursing care institution which provides resident beds or residential units, supervisory care services, personal care service, directed care services or health-related services for persons who do not need inpatient nursing care.
- 50. "Room" means space contained by walls from floor to ceiling with at least one door.
- 51. "Satellite facility" means an outpatient facility at which the hospital provides outpatient medical services.
- 52. "Substantial" when used in connection with a modification means:
  - a. An addition or deletion of an inpatient bed or a change in the use of 1 or more of the inpatient beds;
  - b. A change in the physical plant, including facilities and equipment, that costs more than \$300,000; or
  - c. A change in a health care institution that affects compliance with applicable physical plant codes and standards incorporated by reference in A.A.C. R9-1-412.
- 53. "Substantial compliance" means that the nature or number of violations revealed by any type of inspection or investigation of a licensed health care institution does not pose a direct risk to the life, health or safety of patients or residents.

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- 54. "Substantive review time-frame" means the number of days after the completion of the administrative completeness review time-frame during which an agency determines whether an application or applicant for a license meets all substantive criteria required by statute or rule. Any public notice and hearings required by law shall fall within the substantive review time-frame.
- 55. "Swimming pool" has the same meaning as "semi-public swimming pool" in A.A.C. R18-5-201.
- 56. "System" means interrelated, interacting, or interdependent elements forming a whole.
- 57. "Tax ID number" means a numeric identifier that a person uses to report financial information to the United States Internal Revenue Services.
- 58. "Treatment" means a procedure or method to cure, improve, or palliate an injury, an illness, or a disease.
- 59. "Unclassified health care institution" means a health care institution not classified or subclassified in statute or in rule that provides medical services, nursing services, or health-related services.

**R9-10-102. Reserved Health Care Institution Classes and Subclasses; Requirements**

- A.** A person may apply for a license as an unclassified health care institution; a health care institution class or subclass in A.R.S. Title 36, Chapter 4 or 9 A.A.C. 10; or one of the following classes or subclasses:
  - 1. General hospital.
  - 2. Rural general hospital.
  - 3. Special hospital.
  - 4. Adult day health care facility.
  - 5. Adult foster care.
  - 6. Assisted living center.
  - 7. Assisted living home.
  - 8. Home health agency.
  - 9. Hospice.
  - 10. Hospice inpatient facility.
  - 11. Nursing care institution.
  - 12. Home health agency.
  - 13. Abortion clinic.
  - 14. Recovery care center.
  - 15. Outpatient surgical center, or
  - 16. Outpatient treatment center.
- B.** A health care institution shall comply with the requirements in R9-10-115 if:
  - 1. There are no specific rules in 9 A.A.C. 10 or 9 A.A.C. 20 for the health care institution's class or subclass, or
  - 2. The Department determines that the health care institution is an unclassified health care institution.

**R9-10-103. Reserved Licensure Exceptions**

- A.** A health care institution license is required for each health care institution except for:
  - 1. A facility exempt from licensure under A.R.S. § 36-402; or
  - 2. A health care institution's administrative office.
- B.** A separate health care institution license is not required for:
  - 1. An accredited facility of an accredited hospital under A.R.S. § 36-422(F) or (G);
  - 2. A health care institution operated in conjunction with a licensed health care institution that is:
    - a. Located adjacent to the licensed health care institution; or
    - b. If intersected by property owned or operated by another person or a public thoroughfare, connected by an all-weather enclosure to the licensed health care institution; or
  - 3. A mobile clinic operated by a licensed health care institution.

**R9-10-104. Reserved Approval of Architectural Plans and Specifications**

- A.** For approval of architectural plans and specifications for the construction or modification of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-1-412, an applicant shall submit to the Department an application packet including:
  - 1. An application form provided by the Department that contains:
    - a. For construction of a new health care institution:
      - i. The health care institution's name, street address, city, state, zip code, telephone number, and fax number;
      - ii. The name and address of the health care institution's governing authority;
      - iii. The requested health care institution class or subclass; and
      - iv. The requested licensed capacity for the health care institution;
    - b. For modification of a licensed health care institution:
      - i. The health care institution's license number.
      - ii. The name and address of the licensee.

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- iii. The health care institution's class or subclass, and
  - iv. The health care institution's existing licensed capacity and the requested licensed capacity for the health care institution;
  - c. The health care institution's contact person's name, street address, city, state, zip code, telephone number, and fax number;
  - d. If the application includes architectural plans and specifications:
    - i. A statement signed by the governing authority or the licensee that the architectural plans and specifications comply with applicable licensure requirements in A.R.S. Title 36, Article 4 and 9 A.A.C. 10 and the health care institution is ready for an onsite inspection by a Department representative;
    - ii. The project architect's name, street address, city, state, zip code, telephone number, and fax number; and
    - iii. A statement signed and sealed by the project architect, according to the requirements in 4 A.A.C. 30, Article 3, that the project architect has complied with A.A.C. R4-30-301 and the architectural plans and specifications are in substantial compliance with applicable licensure requirements in A.R.S. Title 36, Article 4 and 9 A.A.C. 10;
  - e. A narrative description of the project; and
  - f. If providing or planning to provide medical services, which require compliance with specific physical plant codes and standards incorporated by reference in R9-1-412, the number of rooms or inpatient beds designated for providing the medical services;
2. One of the following:
- a. If applicable, a building permit issued by the local governmental agency; or
  - b. If a building permit is not required, zoning clearance issued by the local governmental agency that includes:
    - i. The health care institution's name, street address, city, state, zip code, and county;
    - ii. The health care institution's class or subclass and each type of medical services to be provided; and
    - iii. A statement signed by a representative of the local governmental agency stating that the address listed is zoned for the health care institution's class or subclass;
3. The following information on architectural plans and specifications that is necessary to demonstrate that the project described on the application form complies with applicable codes and standards incorporated by reference in R9-1-412:
- a. A table of contents containing:
    - i. The architectural plans and specifications submitted;
    - ii. The physical plant codes and standards incorporated by reference in R9-1-412 that apply to the project or are required by a local governmental agency;
    - iii. An index of the abbreviations and symbols used in the architectural plans and specifications, and
    - iv. The facility's specific International Building Code construction type and International Building Code occupancy type;
  - b. If the facility is larger than 3,000 square feet and is or will be occupied by more than 20 individuals, the seal of an architect on the architectural plans and drawings according to the requirements in A.R.S. Title 32, Chapter 1;
  - c. A site plan, drawn to scale, of the entire premises showing streets, property lines, facilities, parking areas, outdoor areas, fences, swimming pools, fire access roads, fire hydrants, and access to water mains;
  - d. For each facility, on architectural plans and specifications:
    - i. A floor plan, drawn to scale, for each level of the facility, showing the layout and dimensions of each room, the name and function of each room, means of egress, and natural and artificial lighting sources;
    - ii. A diagram of a section of the facility, drawn to scale, showing the vertical cross-section view from foundation to roof and specifying construction materials;
    - iii. Building elevations, drawn to scale, showing the outside appearance of each facility;
    - iv. The materials used for ceilings, walls, and floors;
    - v. The location, size, and fire rating of each door and each window and the materials and hardware used, including safety features such as fire exit door hardware and fireproofing materials;
    - vi. A ceiling plan, drawn to scale, showing the layout of each light fixture, each fire protection device, and each element of the mechanical ventilation system;
    - vii. An electrical floor plan, drawn to scale, showing the wiring diagram and the layout of each lighting fixture, each outlet, each switch, each electrical panel, and electrical equipment;
    - viii. A mechanical floor plan, drawn to scale, showing the layout of heating, ventilation, and air conditioning systems;
    - ix. A plumbing floor plan, drawn to scale, showing the layout and materials used for water and sewer systems including the water supply and plumbing fixtures;
    - x. A floor plan, drawn to scale, showing the communication system within the health care institution including the nurse call system, if applicable;
    - xi. A floor plan, drawn to scale, showing the automatic fire extinguishing, fire detection, and fire alarm sys-

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- tems; and
- xii. Technical specifications describing installation and materials used in the health care institution;
- 4. The estimated total project cost including the costs of:
  - a. Site acquisition,
  - b. General construction,
  - c. Architect fees,
  - d. Fixed equipment, and
  - e. Movable equipment;
- 5. The following, as applicable:
  - a. A copy of the Certificate of Occupancy;
  - b. A certification and a statement that the construction or modification of the facility is in substantial compliance with applicable licensure requirements in A.R.S. Title 36, Article 4 and 9 A.A.C. 10 signed by the project architect, the contractor, and the owner;
  - c. A written description of any work necessary to complete the construction or modification submitted by the project architect;
  - d. If the construction or modification affected the health care institution's fire alarm system, a contractor certification and description of the fire alarm system on a form provided by the Department;
  - e. If the construction or modification affected the health care institution's automatic fire extinguishing system, a contractor certification of the automatic fire extinguishing system on a form provided by the Department;
  - f. If the construction or modification affected the health care institution's heating, ventilation, or air conditioning, a copy of the heating, ventilation, air conditioning, and air balance tests and a contractor certification of the heating, ventilation, or air conditioning systems;
  - g. If draperies, cubicle curtains, or floor coverings are installed or replaced, a copy of the manufacturer's certification of flame spread for the draperies, cubicle curtains, or floor coverings;
  - h. For a health care institution using inhalation anesthetics or nonflammable medical gas, a copy of the Compliance Certification for Inhalation Anesthetics or Nonflammable Medical Gas System required in the National Fire Codes incorporated by reference in R9-1-412;
  - i. When a generator is installed, a copy of the installation acceptance required in the National Fire Codes incorporated by reference in R9-1-412;
  - j. For a health care institution providing radiology, a written report from a certified health physicist of the location, type, and amount of radiation protection; and
  - k. If a factory-built building is used by a health care institution:
    - i. A copy of an installation permit and a copy of a certificate of occupancy for the factory-built building from the Office of Manufactured Housing; or
    - ii. A written report from an individual registered as an architect or a professional structural engineer under 4 A.A.C. 30, Article 2, stating that the factory-built building complies with applicable design standards;
- 6. A statement signed by the project architect that final architectural drawings and specifications have been submitted to the person applying for a health care institution license or the licensee of the health care institution; and
- 7. The applicable fee required by R9-10-122.
- B.** Before an applicant submits an application for approval of architectural plans and specifications for the construction or modification of a health care institution, an applicant may request an architectural evaluation by submitting the documents in subsection (A)(3) to the Department.
- C.** The Department shall approve or deny an application for approval of architectural plans and specifications of a health care institution in this Section according to R9-10-108.
- D.** In addition to obtaining an approval of a health care institution's architectural plans and specifications, a person shall obtain a health care institution license before operating the health care institution.

**R9-10-105. Reserved Initial License Application**

- A.** Except as provided in subsection (D), a person applying for a health care institution license shall submit to the Department an application packet that contains:
  - 1. An application form provided by the Department including:
    - a. The health care institution's:
      - i. Name, street address, mailing address, telephone number, fax number, and e-mail address;
      - ii. Tax ID number; and
      - iii. Class or subclass listed in R9-10-102 for which licensure is requested;
    - b. Except for a home health agency or a hospice, whether the health care institution is located within 1/4 mile of agricultural land;
    - c. Whether the health care institution is located in a leased facility;
    - d. Whether the health care institution is ready for a licensing inspection by the Department;

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- e. If the health care institution is not ready for a licensing inspection by the Department, the date the health care institution will be ready for a licensing inspection;
  - f. Owner information including:
    - i. The owner's name, address, telephone number, and fax number;
    - ii. Whether the owner is a sole proprietorship, a corporation, a partnership, a limited liability partnership, a limited liability company, or a governmental agency;
    - iii. If the owner is a partnership or a limited liability partnership, the name of each partner;
    - iv. If the owner is a limited liability company, the name of the designated manager or, if no manager is designated, the names of any two members of the limited liability company;
    - v. If the owner is a corporation, the name and title of each corporate officer;
    - vi. If the owner is a governmental agency, the name and title of the individual in charge of the governmental agency or the name of an individual in charge of the health care institution designated in writing by the individual in charge of the governmental agency;
    - vii. Whether the owner or any person with 10% or more business interest in the health care institution has had a license to operate a health care institution denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license;
    - viii. Whether the owner or any person with 10% or more business interest in the health care institution has had a health care professional license or certificate denied, revoked, or suspended; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license or certificate; and
    - ix. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
  - g. The name and address of the governing authority;
  - h. The chief administrative officer's:
    - i. Name,
    - ii. Title,
    - iii. Highest educational degree, and
    - iv. Work experience related to the health care institution class or subclass for which licensure is requested; and
  - i. Signature required in A.R.S. § 36-422(B) that is notarized;
- 2. If the health care institution is located in a leased facility, a copy of the lease showing the rights and responsibilities of the parties;
  - 3. If applicable, a copy of the owner's articles of incorporation, partnership or joint venture documents, or limited liability documents;
  - 4. If applicable, the name and address of each owner or lessee of any agricultural land regulated by A.R.S. § 3-365 and a copy of the written agreement between the applicant and the owner or lessee of agricultural land as prescribed in A.R.S. § 36-421(D);
  - 5. Except for a home health agency or a hospice, one of the following:
    - a. If the health care institution is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-1-412, documentation of the health care institution's architectural plans and specifications approval in R9-10-104; or
    - b. If the health care institution is not required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-1-412:
      - i. Documentation from the local jurisdiction of compliance with all applicable local building codes and zoning ordinances;
      - ii. The requested licensed capacity for the health care institution;
      - iii. A site plan showing each facility, the property lines of the health care institution, each street and walkway adjacent to the health care institution, parking for the health care institution, fencing and each gate on the health care premises, and, if applicable, each swimming pool on the health care premises; and
      - iv. A floor plan showing, for each story of a facility, the room layout, room usage, each door and each window, plumbing fixtures, each exit, and the location of each fire protection device; and
  - 6. The applicable application fee required by R9-10-122.
- B.** In addition to the initial application requirements in this Section, an applicant shall comply with the initial application requirements in specific rules in 9 A.A.C. 10 or 9 A.A.C. 20 for the health care institution class or subclass for which licensure is requested.
  - C.** The Department shall approve or deny an application in this Section according to R9-10-108.
  - D.** A person applying for a health care institution license for a behavioral health service agency shall submit an application according to the requirements in 9 A.A.C. 20, Article 1.



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**R9-10-107. ~~Reserved~~ Renewal License**

- A.** Except as provided in subsection (F), a licensee applying to renew a health care institution license shall submit an application packet to the Department at least 60 days but not more than 120 days before the expiration date of the current license that contains:
1. A renewal application on a form provided by the Department including:
    - a. The health care institution's:
      - i. Name, license number, mailing address, telephone number, fax number, and e-mail address; and
      - ii. Class or subclass;
    - b. Owner information including:
      - i. The owner's name, address, telephone number, and fax number;
      - ii. Whether the owner is a sole proprietorship, a corporation, a partnership, a limited liability partnership, a limited liability company, or a governmental agency;
      - iii. If the owner is a partnership or a limited liability partnership, the name of each partner;
      - iv. If the owner is a limited liability company, the name of the designated manager or, if no manager is designated, the names of any two members of the limited liability company;
      - v. If the owner is a corporation, the name and title of each corporate officer;
      - vi. If the owner is a governmental agency, the name and title of the individual in charge of the governmental agency or the individual designated in writing by the individual in charge of the governmental agency;
      - vii. Whether the owner or any person with 10% or more business interest in the health care institution has had a license to operate a health care institution denied, revoked, or suspended since the previous license application was submitted; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license;
      - viii. Whether the owner or any person with 10% or more business interest in the health care institution has had a health care professional license or certificate denied, revoked, or suspended since the previous license application was submitted; the reason for the denial, suspension, or revocation; the date of the denial, suspension, or revocation; and the name and address of the licensing agency that denied, suspended, or revoked the license or certificate; and
      - ix. The name, title, address, and telephone number of the owner's statutory agent or the individual designated by the owner to accept service of process and subpoenas;
    - c. The name and address of the governing authority;
    - d. The chief administrative officer's:
      - i. Name,
      - ii. Title,
      - iii. Highest educational degree, and
      - iv. Work experience related to the health care institution class or subclass for which licensure is requested; and
    - e. Signature required in A.R.S. § 36-422(B) that is notarized;
  2. If the health care institution is located in a leased facility, a copy of the lease showing the rights and responsibilities of the parties; and
  3. The applicable renewal application and licensure fees required by R9-10-122.
- B.** In addition to the renewal application requirements in this Section, a licensee shall comply with the renewal application requirements in specific rules in 9 A.A.C. 10 or 9 A.A.C. 20 for the health care institution's class or subclass.
- C.** If a licensee submits a health care institution's current accreditation report from a nationally recognized accrediting organization, the Department shall not conduct an onsite inspection of the health care institution as part of the substantive review for a renewal license.
- D.** The Department shall approve or deny a renewal license according to R9-10-108.
- E.** The Department shall issue a renewal license for:
1. One year, if a licensee is in substantial compliance with the applicable statutes and this Chapter, and the licensee agrees to implement a plan acceptable to the Department to eliminate any deficiencies;
  2. Two years, if a licensee has no deficiencies at the time of the Department's licensure inspection; or
  3. The duration of the accreditation period, if:
    - a. A licensee's health care institution is a hospital accredited by a nationally recognized accreditation organization, and
    - b. The licensee submits a copy of the hospital's accreditation report.
- F.** A person applying to renew a health care institution license for a behavioral health service agency shall submit an application according to the requirements in 9 A.A.C. 20, Article 1.

**R9-10-108. Reserved Time-frames**

- A.** The overall time-frame for each type of approval granted by the Department is listed in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame for each type of approval granted by the Department as prescribed in this Article is listed in Table 1. The administrative completeness review time-frame begins on the date that the Department receives an application packet or a written request for a change in a health care institution license according to R9-10-109(E):
1. The application packet for an initial health care institution license is not complete until the applicant provides the Department with written notice that the health care institution is ready for a licensing inspection by the Department.
  2. If the application packet or written request is incomplete, the Department shall provide a written notice to the applicant specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives the missing document or information from the applicant.
  3. When an application packet or written request is complete, the Department shall provide a written notice of administrative completeness to the applicant.
  4. For an initial health care institution application, the Department shall consider the application withdrawn if the applicant fails to supply the missing documents or information included in the notice described in subsection (C)(2) within 120 days from the date of the notice described in subsection (C)(1).
  5. If the Department issues a license or grants an approval during the time provided to assess administrative completeness, the Department shall not issue a separate written notice of administrative completeness.
- C.** The substantive review time-frame is listed in Table 1 and begins on the date of the notice of administrative completeness.
1. The Department may conduct an onsite inspection of the facility:
    - a. As part of the substantive review for approval of architectural plans and specifications;
    - b. As part of the substantive review for issuing a health care institution initial or renewal license; or
    - c. As part of the substantive review for approving a change in a health care institution's license.
  2. During the substantive review time-frame, the Department may make one comprehensive written request for additional information or documentation. If the Department and the applicant agree in writing, the Department may make supplemental requests for additional information or documentation. The time-frame for the Department to complete the substantive review is suspended from the date of a written request for additional information or documentation until the Department receives the additional information or documentation.
  3. The Department shall send a written notice of approval or a license to an applicant who is in substantial compliance with applicable requirements in A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10.
  4. After an applicant for an initial health care institution license receives the written notice of approval in subsection (C)(3), the applicant shall submit the applicable license fee in R9-10-122 to the Department within 60 days of the date of the written notice of approval.
  5. The Department shall provide a written notice of denial that complies with A.R.S. § 41-1076 to an applicant who does not:
    - a. Submit the information or documentation in subsection (D)(2) within 120 days of the Department's written request to the applicant;
    - b. Comply with the applicable requirements in A.R.S. Title 36, Chapter 4 and 9 A.A.C. 10; or
    - c. Submit the fee in subsection (C)(4).
  6. An applicant may file a written notice of appeal with the Department within 30 days after receiving the notice described in subsection (D)(4) or (D)(5). The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
  7. If a time-frame's last day falls on a Saturday, a Sunday, or an official state holiday, the Department shall consider the next business day to be the time-frame's last day.

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**Table 1.**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-frame</u>	<u>Administrative Completeness Time-frame</u>	<u>Substantive Review Time-frame</u>
<u>Approval of architectural plans and specifications R9-10-104</u>	<u>A.R.S. §§ 36-405, 36-406(1)(b), and 36-421</u>	<u>160 days</u>	<u>100 days</u>	<u>60 days</u>
<u>Health care institution initial license R9-10-105</u>	<u>A.R.S. §§ 36-405, 36-407, 36-421, 36-422, 36-424, and 36-425</u>	<u>180 days</u>	<u>30 days</u>	<u>150 days</u>
<u>Health care institution renewal license R9-10-107</u>	<u>A.R.S. §§ 36-405, 36-407, 36-422, 36-424, and 36-425</u>	<u>180 days</u>	<u>30 days</u>	<u>150 days</u>
<u>Approval of a change to a health care institution license R9-10-109(E)</u>	<u>A.R.S. §§ 36-405, 36-407, and 36-422</u>	<u>75 days</u>	<u>60 days</u>	<u>15 days</u>

**R9-10-109. ~~Reserved~~ Changes Affecting a License**

- A.** A licensee shall ensure that the Department is notified in writing at least 30 days before the effective date of:
1. A change in the name of:
    - a. A health care institution, or
    - b. The licensee; or
  2. A change in the address of a health care institution that does not provide medical services, nursing services, or health-related services on the premises.
- B.** A licensee of a health care institution that is required by this Chapter to comply with any of the physical plant codes and standards incorporated by reference in R9-1-412 shall submit an application for approval of architectural plans and specifications for a modification of the health care institution.
- C.** Except as provided in subsection (D), a governing authority shall submit a license application as required in R9-10-105 for:
1. A change in ownership of a health care institution;
  2. A change in the address or location of a health care institution that provides medical services, nursing services, or health-related services on the premises; or
  3. A change in a health care institution's class or subclass.
- D.** A governing authority shall submit documentation of the health care institution's architectural plans and specifications in R9-10-104 for a change of ownership of a health care institution that has not ceased operations for more than 30 days if there is:
1. A modification of the health care institution.
  2. A change in the services the health care institution is authorized by the Department to provide, or
  3. A change in the location of the health care institution premises.
- E.** A licensee of a health care institution that is not required to comply with the physical plant codes and standards incorporated by reference in R9-1-412 shall submit a written request for a change in the services the health care institution is authorized by the Department to provide or a modification of the health care institution including documentation of compliance with requirements in this Chapter for the change or the modification that contains:
1. The health care institution's name, address, and license number;
  2. A narrative description of the change or modification;
  3. The governing authority's name and dated signature; and
  4. Any documentation necessary to demonstrate that the requested change or modification complies with applicable requirements in this Chapter.
- F.** The Department shall approve or deny a request for a change or modification in this Section according to R9-10-108.
- G.** A licensee shall not implement a change or modification described in this Section until an amended license or a new license is issued by the Department.

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**R9-10-110. ~~Reserved Enforcement Actions~~**

**A.** If the Department determines that an applicant or licensee is not in substantial compliance with applicable laws and rules, the Department may:

1. Issue a provisional license to the applicant or licensee under A.R.S. § 36-425.
2. Assess a civil penalty under A.R.S. § 36-431.01.
3. Impose an intermediate sanction under A.R.S. § 36-427.
4. Remove a licensee and appoint another person to continue operation of the health care institution pending further action under A.R.S. § 36-429.
5. Suspend or revoke a license under R9-10-111 and A.R.S. § 36-427.
6. Deny a license under R9-10-111, or
7. Issue an injunction under A.R.S. § 36-430.

**B.** In determining which action in subsection (A) is appropriate, the Department shall consider the threat to the health, safety, and welfare of patients in the health care institution based on:

1. Repeated violations of statutes or rules.
2. Patterns of non-compliance.
3. Types of violation.
4. Severity of violation, and
5. Number of violations.

**R9-10-111. ~~Legal Authority Denial, Revocation, or Suspension of License~~**

The Arizona State Department of Health, pursuant to the authority granted in Title 36, Chapter 4 and pertinent paragraphs of A.R.S. § 36-136(G) adopts the rules, regulations and standards contained in Chapter 10 for the licensing and regulation of health care institutions:

The Department may deny, revoke, or suspend a license to operate a health care institution if an applicant, a licensee, or a person with a business interest of 10% or more in the health care institution:

1. Provides false or misleading information to the Department;
2. Has had in any state or jurisdiction any of the following:
  - a. An application or license to operate a health care institution denied, suspended, or revoked, unless the denial was based on failure to complete the licensing process within a required time-frame; or
  - b. A health care professional license or certificate denied, revoked, or suspended; or
3. Has operated a health care institution, within the 10 years preceding the date of the license application, in violation of A.R.S. Title 36, Chapter 4 or this Chapter, endangering the health and safety of patients.

**R9-10-112. ~~Intent and purpose of this Article Repealed~~**

**A.** ~~Health care institutions provide services ranging from medical and specialized care to health related services only. The units within this institutional spectrum are classified in R9-10-114 in accordance with the range and depth of services and care, the qualifications of staff and the physical plant and equipment. Classification of patients among the classes or subclasses of health care institutions is determined by the care needed by the patient. In institutions other than general hospitals, it is the responsibility of the governing body and the administrator to accept only those patients whose needs do not exceed the specialty or range of services for which the institution is licensed.~~

**B.** ~~It is the objective of the Director, in the adoption of the regulations in this Chapter:~~

1. ~~To provide each institution latitude for maximum utilization of medical and paramedical manpower and the sharing of central services to the extent consistent with good health care and to encourage all institutions to use inter-institutional and outside service agreements, where appropriate, in lieu of unnecessary duplication of services at each facility;~~
2. ~~To establish minimum standards for personnel, facilities, services, policies, procedures and records;~~
3. ~~To assure that each patient is placed in an institution qualified to provide the care his needs may require;~~
4. ~~To promote the establishment of innovative methods and activities to reduce the cost and improve the quality of health care. To that end, the Department intends to temper the uniform application of regulations in this Chapter with intelligent discretion. It is not intended that the application of this subsection would permit the relaxation of standards, but rather, the use of alternate methods for efficiently achieving equal or higher standards.~~

**R9-10-113. ~~Definitions Repealed~~**

**A.** ~~Words defined in A.R.S. § 36-401 have the same meaning when used in this Chapter except “residential care institution”, “supervisory care services”, and “facilities which are otherwise defined in subsection (B). The following statutory definitions are noted:~~

1. ~~“Adaptive services” means medical services provided on an outpatient basis.~~
2. ~~“Ambulatory person” means any individual, including one who uses a cane or other ambulatory support device, who is physically and mentally capable under emergency conditions of finding a way to safety without assistance.~~

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3. ~~“Construction” means the building, erection, fabrication, or installation of a health care institution or facilities therefor.~~
4. ~~“Department” means the Department of Health Services.~~
5. ~~“Direction” means authoritative policy or procedural guidance for the accomplishment of a function or activity.~~
6. ~~“Director” means the Director of the Department of Health Services.~~
7. ~~“Governing authority” means the individual, agency, group or corporation, appointed, elected or otherwise designated, in which the ultimate responsibility and authority for the conduct of the health care institution is vested.~~
8. ~~“Health care institution” means every place, institution, building or agency, whether organized for profit or not, which provides facilities with medical services, nursing services, health-related services or supervisory care services.~~
9. ~~“Health related services” means services, other than medical, pertaining to general supervision, protective, preventive and personal care services or supervisory care services.~~
10. ~~“Inpatient beds” or “resident beds” means accommodations, with supporting services such as food, laundry and housekeeping, for patients or residents who generally stay in excess of 24 hours.~~
11. ~~“Medical services” means the services pertaining to medical care that are performed at the direction of a physician in behalf of patients by physicians, dentists, nurses and other professional and technical personnel.~~
12. ~~“Modification” means the substantial improvement, enlargement, reduction, moving or alteration of, addition to, or other change in a health care institution or its facilities or in the services provided by such an institution.~~
13. ~~“Nursing care institution” means a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician.~~
14. ~~“Physician” means any person licensed under provisions of A.R.S. Title 32, Chapter 13 or 17.~~
15. ~~“Supervision” means direct overseeing and inspection of the act of accomplishing a function or activity.~~
16. ~~“Supervisory care home” means a residential care institution, which provides only supervisory care services to more than 5 ambulatory persons unrelated to the administrator or owner of such home.~~

**B.** In this Chapter, unless the context otherwise requires:

1. ~~“Ancillary nursing personnel” means persons employed to assist registered nurses or licensed practical nurses in the care of patients. This term does not include clerical personnel or volunteers.~~
2. ~~“Audiologist” means a person who has been granted a Certificate of Clinical Competence in audiology by the American Speech and Hearing Association, or who has completed the equivalent educational requirements and work experience necessary for such a certificate, or who has completed the academic program and is in the process of accumulating the supervised work experience required to qualify for such a certificate.~~
3. ~~“Behavioral health service” means screening, evaluation, care or treatment services to prevent, reduce, or eliminate substance abuse and the behavioral disorders related to 1 or more mental or emotional problems or to substance abuse.~~
4. ~~“Behavioral health service agency” means a class of health care institution other than a hospital which provides screening, evaluation, care or treatment to persons having behavioral disorders related to a mental or emotional problem(s) or substance abuse.~~
5. ~~“Dietitian” means a person who meets the standards of qualifications established by the Commission on Dietetic Registration under the requirements in effect on or prior to March 9, 1976, or who has completed the academic program and is in the process of accumulating the supervised work experience required to qualify for such registration.~~
6. ~~“Director of nursing” means a registered nurse with supervisory and administrative ability who is responsible to the chief administrative officer for direction of nursing service for the entire facility for all shifts.~~
7. ~~“Drug administration” means the giving of a single dose of medication to a specific patient as a result of an order of a physician or other authorized medical practitioner.~~
8. ~~“Drug dispensing” means the issuing of 1 or more doses of a medication in a suitable container with appropriate label for subsequent administration to or use by a patient.~~
9. ~~“Emergency treatment clinic” is a subclass of outpatient treatment center with facilities and limited hospital services for the physical evaluation of outpatients and having as its principal service the initial care of injuries or illnesses.~~
10. ~~“Facilities”, except where used in the name of a class or subclass is synonymous with health care institution as defined in A.R.S. § 36-401 and includes all places, institutions, and services subject to A.R.S. Title 36, Chapter 4, Articles 1 and 2.~~
11. ~~“Health services clinic” is a subclass of outpatient treatment center which provides adaptive services and where patients are not kept overnight as bed patients or treated under general anesthesia.~~
12. ~~“Hospital services” means the pre-admission, outpatient, inpatient and post-discharge care provided in or by a general hospital, special hospital, rural general hospital or infirmary.~~
13. ~~“Infirmary” is a class of health care institution having 30 or fewer inpatient beds and providing limited hospital services to the staff and students of a school, the members of an association or the clients or wards of a public agency.~~

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14. "Institution", except where used in the name of a class or subclass, is synonymous with health care institution as defined in A.R.S. § 36-401 and includes all places, facilities and services subject to A.R.S. Title 36, Chapter 4, Articles 1 and 2.
15. "Intermediate care facility" means a subclass of nursing care institution which provides nursing and health-related services to patients as specified in R9-10-913.
16. "Licensed bed" means an individual patient care unit including a bed and related furniture, equipment and space.
17. "Licensed nursing personnel" means registered and licensed practical nurses.
18. "Medical staff" means physicians, dentists and other practitioners of the healing arts who have been granted privileges by agreement with the institution as defined in the institution's medical staff by-laws.
19. "New construction" means new buildings, addition to existing buildings, conversion of existing buildings or portions thereof or portions of buildings under the provisions of A.R.S. Title 32, Chapter 15.
20. "Nurse practitioner" means a registered nurse certified by the Arizona State Board of Nursing to function as a nurse practitioner in the extended role under the provisions of A.R.S. Title 32, Chapter 15.
21. "Nursing unit" means an organized jurisdiction of nursing services such as a nurses' station and related service areas, special care unit, or outpatient clinic.
22. "Occupational therapist" means a person who is registered or is eligible for registration by the American Occupational Therapy Association, or who has completed the equivalent education requirements and work experience necessary for such registration or who has completed the academic program and is in the process of accumulating the supervised work experience required to qualify for such registration.
23. "Outpatient surgical center" is a subclass of outpatient treatment center with facilities and limited hospital services for the diagnosis or treatment of patients by surgery whose recovery, in the concerning opinion of the surgeon and the anesthesiologist, will not require inpatient care.
24. "Outpatient treatment center" is a class of health care institution without inpatient beds which provides medical services for the diagnosis and treatment of persons on an outpatient basis.
25. "Outpatient treatment clinic" is a subclass of outpatient treatment center and is defined in A.R.S. § 36-421.01, as "... a facility or a portion of a facility where practitioners of the healing arts licensed under Title 32 may practice with necessary diagnostic and treatment facilities and where patients are not kept overnight as bed patients or treated under general anesthesia.
26. "Patient" means a person admitted to or receiving care in an institution.
27. "Personal care facility" means a subclass of nursing care institution which provides nursing and health-related services as specified in R9-10-913.
28. "Physician's assistant" means a person certified under the provisions of A.R.S. Title 32, Chapter 25.
29. "Qualified person" when used in connection with an occupation or position, means a person:
  - a. Who is licensed or has certification, registration or other professional recognition, or if there are no such requirements or standards;
  - b. Who has appropriate training, education, or relevant experience and demonstrates through job performance to the satisfaction of the chief administrative officer the ability to perform the required functions.
30. "Residential care institution" means a health care institution other than a hospital or a nursing care institution which provides resident beds and health-related services for persons who do not need inpatient nursing care. Residential care institutions shall not include:
  - a. Facilities for the mentally retarded except that any other class of health care institution in such facility shall be appropriately licensed.
  - b. Penal or correctional facilities maintained and operated by the state or a political subdivision thereof except that any other class of health care institution in such facility shall be appropriately licensed.
  - c. Foster homes or child welfare agencies operated under a permit from the Department of Economic Security except that any other class of health care institution in such facility shall be appropriately licensed.
  - d. A facility owned or rented as a personal residence in which health-related services may incidentally be provided among family members.
31. "Respiratory therapist" means a person registered or eligible for registration by the American Registry of Inhalation Therapist, Inc., and graduated from an American Medical Association approved respiratory care education and training program, or certified or eligible for certification by the Technician Certification Board of the American Association of Respiratory Therapy and practicing under the supervision of a registered or registration eligible respiratory therapist.
32. "Rural general hospital" means a subclass of hospital having 50 or fewer inpatient beds serving an area located not less than 20 surface travel miles distant from another general hospital or rural general hospital and which provides hospital services.
33. "Skilled nursing care facility" means a subclass of nursing care institutions which provides nursing and health-related services to patients as specified in R9-10-913.

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- 34. "Special hospital" means a subclass of hospital which provides hospital services for person having a specialized medical condition, and which limits admission, care and services to patients appropriate to the specialties for which it has qualified for licensure.
- 35. "Speech therapist" means a person who has been granted the certificate of clinical competence in speech pathology by the American Speech and Hearing Association, or who has completed the equivalent educational requirement and work experience required for such a certificate or who has completed the academic program and is in the process of accumulating the supervised work experience required to qualify for such registration.
- 36. "Supervisory care services" means accommodation, board and general supervision, including assistance to persons in the self-administration of prescribed medications. For purposes of this definition, "general supervision" means protective oversight, including daily awareness of resident functioning and continuous needs and functional level assessment, ability to intervene in a crisis situation and supervision in self-administration of medications.
- 37. "Treatment" is the medical, surgical or psychiatric management of a patient or procedure for the cure or amelioration of a disease or pathological condition.

**R9-10-114. Classifications Repealed**

**A.** Health care institutions are classified and subclassified as follows:

- 1. Hospitals
  - a. General hospitals
  - b. Special hospitals
  - c. Rural general hospitals
- 2. Nursing care institutions
  - a. Skilled nursing care facilities
  - b. Intermediate care facilities
  - c. Personal care facilities
- 3. Outpatient treatment centers
  - a. Outpatient surgical centers
  - b. Emergency treatment clinics
  - c. Outpatient treatment clinics
  - d. Health services clinics
- 4. Residential care institutions
  - a. Supervisory care homes
- 5. Home health agencies
- 6. Infirmaries
- 7. Behavioral health service agencies.

**B.** Any facilities that are clearly health care institutions but do not come within any of the subclasses listed in subsection (A) shall at a minimum meet the requirements of R9-10-115.

**C.** All health care institutions are subject to the provisions of Chapters 9 and 11 of this Title, except as otherwise specified, and all health care institutions are subject to all of the provisions of this Article and such other Articles in Chapter 10 that may specifically relate to the subclass of institution concerned.

**R9-10-116. Documentation Repealed**

Where this Chapter requires an institution to have by-laws, rules, regulations, policies, procedures, plans, job descriptions, orders, reports, minutes of meetings, records, contracts, agreements, duty schedules, or any similar items, such requirement means written documents which shall be readily available for inspection by the Director or his representative.

**R9-10-117. Transfer to another subclass Repealed**

A licensed health care institution which seeks to change its license to a class or subclass outside the class in which it is licensed shall comply with all applicable construction standards adopted by reference in A.A.C. R9-1-412. If the change in license is to another subclass of the same licensed class, the requirements of the code adopted by reference in A.A.C. R9-1-412(A) are not applicable except for new construction or when remodeling is contemplated.

**R9-10-121. General requirements for licensure Repealed**

**A.** Application for licensure as a health care institution shall be made on an application form provided by the Department. If more than 1 subclass of license is desired for a single structure, separate applications shall be made and the areas to be covered by each license shall be clearly described.

**B.** Separate licenses are required for facilities maintained on non-contiguous premises except for branch offices of home health agencies and mobile and temporary clinics operated by governmental agencies. Structures for patient care activities on contiguous grounds and under the same ownership may be licensed as a single institution provided that they are not intersected by a public thoroughfare or, if so intersected, are connected by an all-weather enclosure. For the purpose of this regulation, the term "same ownership" may include either fee or leasehold ownership or a combination thereof.

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- ~~C.~~ Applications for licensure of leased premises shall contain a copy of the entire lease showing clearly the respective responsibilities of its parties for the maintenance and upkeep of the property and that the applicant has exclusive rights of possessions subject only to normal and reasonable right of entry by the landlord.
- ~~D.~~ Each licensed facility shall be designated by a distinctive name which shall not be changed without written notification to the Department. Upon receiving such notification, the license will be amended.
- ~~E.~~ Persons acquiring a health care institution must obtain a new license at or immediately prior to transfer of ownership of the institution.
- ~~F.~~ Applications shall be signed, in the case of an individual, by the owner of the health care institution, or in the case of a partnership, or a corporation, by 2 of the officers thereof, or in the case of a governmental unit, by the head of the governmental department having jurisdiction thereof. The signature(s) shall be notarized.
- ~~G.~~ The governing body shall maintain in the administrative offices of the facility a current list of names and addresses of all persons or entities having 10% or more of the ownership interest as well as copies of all deeds, leases, land sale contracts or other documents evidencing control or ownership of the real property.

**R9-10-123. Initial application Repealed**

- ~~A.~~ An initial application shall include supplementary information with the application form and is required whenever 1 of the following pertains:
  - 1. Institutions seeking an original license in a subclass of health care institution or being relicensed following the revocation or suspension of license, or which have been temporarily closed.
  - 2. Institutions which will have a change of ownership beginning with the new license.
- ~~B.~~ In addition to the requirements of A.R.S. §§ 36-422 and 36-436, an initial application shall contain the following information:
  - 1. Completed questionnaires on ownership, physical plant, staff, records and special services.
  - 2. Fire and sanitation inspection reports unless otherwise specified in the Article applicable to its licensure.
  - 3. Additional attachments required for approval of a clinical laboratory operated in conjunction with a health care institution, when applicable.

**R9-10-124. Renewal application Repealed**

- ~~A.~~ The Department will notify the institution of the need to renew a license approximately 100 days prior to the expiration date of the then current license. Renewal applications shall be submitted on forms furnished by the Department.
- ~~B.~~ In addition to the requirements of A.R.S. §§ 36-422 and 36-436, a renewal application shall contain the following information:
  - 1. Completed questionnaires on ownership and staffing.
  - 2. Fire and sanitation inspection reports unless otherwise specified in the Article applicable to its licensure.
  - 3. Additional attachments required of institutions operating a clinical laboratory in conjunction therewith.

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

**PREAMBLE**

- | <b><u>1. Sections Affected</u></b>   | <b><u>Rulemaking Action</u></b>  |
|--|--|
| R9-16-315  | New Section  |
| <b><u>2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):</u></b> |  |
| Authorizing statutes: A.R.S. §§ 36-104(3), 36-136(F), and 36-1902(B)   |  |
| Implementing statutes: A.R.S. §§ 36-1904, 36-1910, 36-1922, 36-1923, 36-1926, and 41-1072 through 41-1079  |  |
| <b><u>3. A list of all previous notices appearing in the Register addressing the proposed rule:</u></b>  |  |
| Notice of Rulemaking Docket Opening: 7 A.A.R. 3847, August 31, 2001  |  |
| <b><u>4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:</u></b>  |  |
| Name:  | Becky Burkhardt, Team Leader   |
| Address:   | Arizona Department of Health Services<br>Assurance and Licensure, Office of Speech and Hearing Licensure<br>1647 East Morten, Suite 160<br>Phoenix, AZ 85020 |



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Telephone: (602) 674-4325  
Fax: (602) 861-0463  
or  
Name: Kathleen Phillips, Rules Administrator  
Address: Arizona Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007  
Telephone (602) 542-1264  
Fax: (602) 364-1150

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The proposed rulemaking adds R9-16-315 to establish time-frames for Department approval to take an examination, of a regular license by examination, of a regular license by reciprocity, of a regular license for a business, of renewal of a regular license, of an initial temporary license, of renewal of a temporary license, and of approval of a continuing education course that is requested separately from an application for renewal of a license. The rulemaking is necessary to ensure that Department approvals required under 9 A.A.C. 16, Article 3 are issued according to A.R.S. §§ 41-1072 through 41-1079.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

Not applicable

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The proposed rule directly impacts and benefits the approximately 215 hearing aid dispensers who are currently licensed to engage in the practice of fitting and dispensing hearing aids in Arizona, the approximately 60 business organizations that are currently licensed to operate a hearing aid dispenser business in Arizona, and the approximately 160 individuals and entities who may apply for approvals related to the hearing aid dispenser licensing program. The proposed rule will not add any new or additional costs to licensed hearing aid dispensers or hearing aid dispenser businesses, or to individuals who may apply to the Department for approvals related to the hearing aid dispenser licensing program. Establishing a time-frame rule for the licensure of hearing aid dispensers and hearing aid dispenser businesses and for approvals related to the hearing aid dispenser licensing program helps ensure that the Department issues hearing aid dispenser and hearing aid dispenser business licenses and approvals in a timely and consistent manner. This benefits Arizona's hearing aid dispensers and hearing aid dispenser businesses, individuals and businesses that apply to become hearing aid dispensers or hearing aid dispenser businesses, individuals and entities that apply for approvals related to the hearing aid dispenser licensing program, and the tens of thousands of individuals who receive services from licensed hearing aid dispensers and hearing aid dispenser businesses in Arizona.

The proposed rule directly impacts the Department. The Department estimates that it will incur minimal initial costs of approximately \$580.00 to revise forms and update the Department's database. The Department estimates that it will incur moderate ongoing annual costs of approximately \$2214.00 to implement the time-frame rule. The Department's increased annual costs result from entering data into the database for approximately 50 applications for approval to take the examination and approximately 65 applications for approval of a continuing education course; monitoring and tracking those applications; mailing letters of administrative completeness to applicants; and conducting management review and analysis of time-frame compliance.

The proposed rule may impact state revenues if the Department fails to comply with the time-frame requirements and is required by state law to refund licensing fees and pay penalties to applicants. However, the Department has already been performing time-frame activities and tracking time-frames for the licensure of hearing aid dispensers and, given the Department's current work load and resources, the Department believes that the time-frame rule requirements will be met for the licensing of hearing aid dispensers and hearing aid dispenser businesses, the approval to take the examination, and the approval of a continuing education course.

The proposed rule does not impact public or private employment or a political subdivision of this state

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Not applicable

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comment on the proposed rulemaking may be submitted to an individual listed in item #4 until 5:00 p.m., March 25, 2002, the date scheduled for the close of record.

The Department will schedule an oral proceeding on the proposed rulemaking if a written request for an oral proceeding is submitted to an individual named in item #4 before 5:00 p.m., March 25, 2002.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

None.

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

Section

R9-16-315. Time-frames

**ARTICLE 3. LICENSING HEARING AID DISPENSERS**

**R9-16-315. Time-frames**

- A.** For purposes of this Section, “application packet” means the information, documents, and fees required by the Department for:
- 1.** Approval to take an examination.
  - 2.** An initial regular license or renewal of a regular license.
  - 3.** An initial temporary license or renewal of a temporary license.
- B.** The overall time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. An extension of the substantive review time-frame and the overall time-frame may not exceed 25% of the overall time-frame.
- C.** The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Department under this Article is set forth in Table 1.
- 1.** The administrative completeness review time-frame begins:
    - a.** For approval to take an examination, on the date the Department receives an application packet;
    - b.** For approval of a regular license by examination, when an applicant takes an examination;
    - c.** For approval of a regular license by reciprocity, a regular license for a business, an initial temporary license, a renewal of a regular license, or a renewal of a temporary license, on the date the Department receives an application packet.
  - 2.** When an application packet is complete, the Department shall provide a written notice of administrative completeness to the applicant.
  - 3.** If the Department grants an approval during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
  - 4.** If the application packet is incomplete, the Department shall provide to the applicant a written notice of deficiencies specifying the missing documents or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Department receives a complete application packet from the applicant.
  - 5.** If the applicant fails to submit to the Department all of the items and information listed in the notice of deficiencies within 90 days from the date of the notice of deficiencies, the Department shall consider the application withdrawn.
- D.** The substantive review time-frame described in A.R.S. § 41-1072 is set forth in Table 1 and begins on the date of the notice of administrative completeness.
- 1.** During the substantive review time-frame, the Department may make 1 comprehensive written request for additional documents or information, or a supplemental request by mutual written agreement for additional documents or information.

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2. If the Department provides to the applicant a comprehensive written request or a supplemental request for additional documents or information, the substantive review time-frame and the overall time-frame are suspended from the date of the request until the date the Department receives all of the documents or information requested.
3. If the applicant fails to submit to the Department the documents or information requested by the Department in a comprehensive written request or supplemental request for additional documents or information within 90 days from the date of the request, the Department shall consider the application withdrawn.

**Table 1. Time-frames (in calendar days)**

<b><u>Type of Approval</u></b>	<b><u>Statutory Authority</u></b>	<b><u>Overall Time-frame</u></b>	<b><u>Administrative Completeness Review Time-frame</u></b>	<b><u>Substantive Review Time-frame</u></b>
<u>Approval to take an examination (R9-16-303(A)(1) and (A)(2))</u>	<u>A.R.S. §§ 36-1904, 36-1923</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Regular License by Examination (R9-16-303(A)(3), (A)(4), and (A)(5))</u>	<u>A.R.S. §§ 36-1904, 36-1923</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Regular License by Reciprocity (R9-16-303(B))</u>	<u>A.R.S. §§ 36-1904, 36-1922</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Regular License for a Business (R9-16-303(C))</u>	<u>A.R.S. §§ 36-1904, 36-1910</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Initial Temporary License (R9-16-303(D))</u>	<u>A.R.S. § 36-1926</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Renewal of a Temporary License (R9-16-303(D))</u>	<u>A.R.S. § 36-1926</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Renewal of a Regular License (R9-16-303(C) and R9-16-307)</u>	<u>A.R.S. §§ 36-1904, 36-1904, 36-1910</u>	<u>60</u>	<u>30</u>	<u>30</u>
<u>Approval of a continuing education course that is requested separately from an application for renewal of a license (R9-16-308 and R9-16-309)</u>	<u>A.R.S. § 36-1904(C)</u>	<u>60</u>	<u>30</u>	<u>30</u>

## NOTICE OF PROPOSED RULEMAKING

### TITLE 9. HEALTH SERVICES

#### CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING

##### PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R9-16-102                   | Amend                    |
| Exhibit A                   | Repeal                   |
| R9-16-105.01                | New Section              |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A), and 36-136(F)

Implementing statutes: A.R.S. §§ 36-751 through 36-760
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 798, February 22, 2002 (*in this issue*)
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Kathleen Phillips, Rules Administrator
Address:	Department of Health Services 1740 W. Adams, Suite 102 Phoenix, AZ 85007
Telephone:	(602) 542-1264
Fax:	(602) 364-1150
E-mail:	kphillips@hs.state.az.us
or	
Name:	Dorothy Hanson, Program Manager
Address:	Department of Health Services Bureau of Community and Family Health Services 2927 N. 35th Ave. Phoenix, AZ 85017
Telephone:	(602) 364-1448
Fax:	(602) 364-1495
E-mail:	dhanson@hs.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

The purpose of the proposed rules is to establish licensing time-frames required by A.R.S. § 41-1073. In addition, the proposed rules delete requirements for an individual to submit "An Intent to Apprentice in Midwifery" form before the individual begins a midwifery apprenticeship. The Department does not have statutory authority to regulate midwifery apprentices, as identified in the last five-year review report, submitted by the Department and approved by the Governor's Regulatory Review Council, at the November 6, 2001 G.R.R.C. meeting. The Department is meeting with stakeholders and will be proposing rules to address other issues identified in the five-year review report in a subsequent rulemaking.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

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**8. The preliminary summary of the economic, small business, and consumer impact:**

The requirements for licensing time-frames in the proposed rules will minimally increase tracking and noticing costs for the Department. The repeal of the apprenticeship requirements will minimally decrease tracking costs for the Department. Repealing the form entitled "Intent to Apprentice in Midwifery" and its requirements will minimally decrease costs for individuals beginning a midwifery apprenticeship. Additionally, the proposed rules will benefit applicants and licensed midwives by establishing time-frames for processing midwifery license applications and issuing midwifery licenses.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Kathleen Phillips, Rules Administrator

Address: Department of Health Services  
1740 W. Adams, Suite 102  
Phoenix, AZ 85007

Telephone: (602) 542-1264

Fax: (602) 364-1150

E-mail: kphillips@hs.state.az.us

or

Name: Dorothy Hanson, Program Manager

Address: Department of Health Services  
Bureau of Community and Family Health Services  
2927 N. 35th Ave.  
Phoenix, AZ 85017

Telephone: (602) 364-1448

Fax: (602) 364-1495

E-mail: dhanson@hs.state.az.us

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has scheduled the following oral proceeding:

Date: Tuesday, March 26, 2002

Time: 1:00 p.m.

Location: 740 W. Adams, Conference Room 411  
Phoenix, AZ 85007

A person may submit written comments on the proposed rules no later than the close of record, 5:00 p.m., Wednesday, March 27, 2002 to the individuals listed in items #4 and #9.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

**ARTICLE 1. LICENSING OF MIDWIFERY**

Section

R9-16-102. Qualifications for Licensure

Exhibit A. ~~Intent to Apprentice in Midwifery~~ Repealed

R9-16-105.01. Time-frames

**TITLE 9. HEALTH SERVICES**

**CHAPTER 16. DEPARTMENT OF HEALTH SERVICES - OCCUPATIONAL LICENSING**

**ARTICLE 1. LICENSING OF MIDWIFERY**

**R9-16-102. Qualifications for Licensure**

To qualify for a midwife license, an applicant shall:

1. ~~Be 18 years of age or older;~~
2. ~~Be a graduate from high school or the equivalent;~~
3. ~~Be currently certified by the American Heart Association in adult basic cardiopulmonary resuscitation (CPR) and by the American Academy of Pediatrics in neonatal resuscitation.~~
4. ~~Submit the "Intent to Apprenticeship" form set forth in Exhibit A to the Department and complete a midwifery apprenticeship within 5 years prior to the date of application for licensure.~~
5. ~~If licensed to practice midwifery in another state, in addition to complying with subsections (1), (2), (3), (6), and (7):~~
  - a. ~~Provide evidence of either completion of a midwifery apprenticeship program or state licensed and professionally approved school at least equivalent to R9-16-103(E), (F), and (G). This shall be done in lieu of R9-16-103(E), (F), and (G).~~
  - b. ~~If the above is not completed within 5 years prior to the date of application for Arizona licensure, the midwife shall in addition to the requirements of R9-16-102(5)(a), demonstrate experience in the management of prenatal, intrapartum, postpartum, and newborn periods, including not less than 50 labor and deliveries within the 5 years prior to application for Arizona licensure, as evidenced by letters from licensed physicians in that state who have provided services to the midwife's clients.~~
6. ~~Submit to the Director 1 written recommendation from a physician, certified nurse-midwife, of a licensed midwife, and 1 written recommendation from a client of midwifery services; and~~
7. ~~Submit to a background search conducted by the Department and the Office of Special Investigations for purposes of determining if the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude.~~

To qualify for a midwife license, an applicant shall:

1. Be 18 years of age or older;
2. Have a high school diploma or a high school equivalency diploma;
3. Be of good moral character;
4. Be currently certified by the American Heart Association in adult basic cardiopulmonary resuscitation;
5. Be currently certified by the American Academy of Pediatrics in neonatal cardiopulmonary resuscitation;
6. Submit a letter of recommendation from a certified nurse-midwife, a licensed midwife, or a physician that contains the recommending individual's signature, title, address, and telephone number and date of the recommendation; and
7. Submit a letter of recommendation from a mother for whom the applicant has provided midwifery services that contains the mother's signature, address, and telephone number and date of the recommendation.

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**EXHIBIT A.**

**INTENT TO APPRENTICE IN MIDWIFERY REPEALED**

**DIVISION OF FAMILY HEALTH SERVICES**

**INTENT TO APPRENTICE IN MIDWIFERY**

Office Use Only

Date Stamp	Date: _____	Date of Birth: _____
F/U Instruct.	Name: _____	Phone: _____ (home)
	Address: _____	Phone: _____ (work)
	Preceptor Name: _____	Phone: _____ (home)
	Preceptor Address: _____	Phone: _____ (work)

Preceptor's Consultants Utilized and Emergency Plan: \_\_\_\_\_

Apprenticeship to Begin on: \_\_\_\_\_ Be Complete By: \_\_\_\_\_

**I. Education**

Institution	Location	Course of Study	Dates Attended	Degree or Certification

**II. Affidavit**

By signing this application, I certify under penalty of law that the information provided anywhere in this application is true, correct, and complete to the best of my knowledge and belief. I have received a copy of the statute and rules governing the practice of licensed midwifery in the State of Arizona. I understand, should any questions arise regarding completion of this application process, that I am responsible for contacting the program manager for clarification. I also acknowledge that, should investigation at any time disclose any misrepresentation or falsification, my application will be denied or my license will be revoked, denied, or suspended.

**III. Notarized Signatures**

Notary

Apprentice Midwife

Date

Notary

Preceptor

Date

Expiration Date

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**R9-16-105.01. Time-frames**

- A.** The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Department is set forth in Table 1. The applicant and the Department may agree in writing to extend the substantive review time-frame and the overall time-frame. The substantive review time-frame and the overall time-frame may not be extended by more than 25% of the overall time-frame.
- B.** The administrative completeness review time-frame described in A.R.S. § 41-1072(1) for each type of approval granted by the Department is specified in Table 1.
1. The administrative completeness review time-frame begins:
    - a. For an applicant applying for approval to take the midwifery examination, when the Department receives the application packet required in R9-16-103;
    - b. For an applicant who has been approved to take the written midwifery examination, when the applicant completes taking the written examination;
    - c. For an applicant who has been approved to take the oral midwifery examination, when the applicant completes taking the oral midwifery examination;
    - d. For a licensed midwife applying to renew a midwifery license, when the Department receives the application required in R9-16-105.
  2. If an application in subsection R9-16-103 or R9-16-105 is:
    - a. Incomplete, the Council shall provide a deficiency notice to the applicant describing the missing documentation or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Council receives the documentation or information listed in the deficiency notice. An applicant shall submit to the Department the documentation or information listed in the deficiency notice within the time period specified in Table 1 for responding to a deficiency notice.
      - i. If the applicant submits the documentation or information listed in the deficiency notice within the time period specified in Table 1 the Department shall provide a written notice of administrative completeness to the applicant.
      - ii. If the applicant does not submit the documentation or information listed in the deficiency notice within the time period in Table 1, the Department considers the application withdrawn and shall return the application packet to the applicant; or
    - b. Complete, the Department shall provide a notice of administrative completeness to the applicant.
  3. If an applicant takes and submits a midwifery examination in R9-16-104 and the examination is:
    - a. Incomplete, the Department shall provide a deficiency notice to the applicant stating that the applicant's examination is incomplete and identifying the date of the next scheduled examination. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the Department receives a completed examination; or
    - b. Complete, the Department shall provide a written notice of administrative completeness to the applicant.
- C.** The substantive review time-frame described in A.R.S. § 41-1072(3) is specified in Table 1 and begins to run on the date of the notice of administrative completeness.
1. If an application for approval to take a midwifery examination in subsection R9-16-103 or R9-16-104:
    - a. Does not comply with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written request for additional information to the applicant.
      - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted by the applicant does not demonstrate compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide the applicant a written notice of denial that complies with A.R.S. § 41-1092.03(A); or
      - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information submitted by the applicant demonstrates compliance with this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of approval to take the examination to the applicant; or
    - b. Complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of approval to take the examination to the applicant.
  2. If the Department determines that an applicant:
    - a. Failed to take any part of the midwifery examination within the time-frame in subsection (F), the Department shall provide a written notice to the applicant requiring the applicant to submit a new application for approval to take the examination;
    - b. Failed any part of the midwifery examination, the Department shall provide a written notice of appealable agency action that complies with A. R. S. Title 41, Chapter 6, Article 10 to the applicant; or
    - c. Passed the midwifery examination, the Department shall issue a midwifery license to the applicant.
  3. If an application for renewal of a midwifery license in R9-16-105:



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- a. Does not comply with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a comprehensive request for additional information to the applicant;
    - i. If the applicant does not submit the additional information within the time specified in Table 1 or the additional information submitted does not demonstrate compliance with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall provide a written notice of appealable agency action that complies with A.R.S. Title 41, Chapter 6, Article 10 to the applicant; or
    - ii. If the applicant submits the additional information within the time specified in Table 1 and the additional information demonstrates compliance with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a midwifery renewal license to the applicant; or
  - b. Complies with the requirements in this Article and A.R.S. Title 36, Chapter 6, Article 7, the Department shall issue a midwifery renewal license to the applicant.
- D.** If an applicant receives a written order of appealable agency action in subsections (C)(2)(b) or (C)(3)(a)(i), the applicant may file a notice of appeal with the Department within 30 days after receiving the notice of appealable agency action. The appeal shall be conducted according to A.R.S. Title 41, Chapter 6, Article 10.
- E.** If the Department grants approval to take an examination or renews a midwifery license during the administrative completeness review time-frame, the Department shall not issue a separate written notice of administrative completeness.
- F.** If an applicant does not take a part of the midwifery examination within 12 months of the Department's approval to take the midwifery examination, the applicant shall, before retaking the midwifery examination:
- 1. Submit a new application for Department approval and the application fee required in R9-16-103;
  - 2. Receive Department approval to take the examination; and
  - 3. Submit the nonrefundable examination fee required in R9-16-104.
- G.** If a time-frame's last day falls on a Saturday, Sunday, or a legal holiday, the Department considers the next business day as the time-frame's last day.

**Table 1. Time-frames**

<u>Type of Approval</u>	<u>Statutory Authority</u>	<u>Overall Time-Frame</u>	<u>Administrative Completeness Review Time-Frame</u>	<u>Time to Respond to Deficiency Notice</u>	<u>Substantive Review Time-Frame</u>	<u>Time to Respond to Comprehensive Written Request</u>
<u>Approval to take written midwifery examination (R9-16-103)</u>	<u>A.R.S. § 36-753, 36-754, and 36-755</u>	<u>75 days</u>	<u>30 days</u>	<u>60 days</u>	<u>45 days</u>	<u>120 days</u>
<u>Approval to take oral midwifery examination (R9-16-104)</u>	<u>A.R.S. § 36-755</u>	<u>75 days</u>	<u>15 days</u>	<u>180 days</u>	<u>60 days</u>	<u>180 days</u>
<u>Initial Licensure (R9-16-104)</u>	<u>A.R.S. § 36-753, 36-754, and 36-755</u>	<u>45 days</u>	<u>30 days</u>	<u>60 days</u>	<u>15 days</u>	<u>30 days</u>
<u>Midwifery License Renewal (R9-16-105)</u>	<u>A.R.S. § 36-754</u>	<u>60 days</u>	<u>30 days</u>	<u>30 days</u>	<u>30 days</u>	<u>15 days</u>

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

**PREAMBLE**

**1. Sections Affected**

**Rulemaking Action**

R13-4-101	Amend
R13-4-102	Amend
R13-4-103	Amend
R13-4-104	Amend
R13-4-105	Amend
R13-4-106	Amend
R13-4-107	Amend
R13-4-108	Amend
R13-4-109	Amend
R13-4-109.01	New Section
R13-4-110	Amend
R13-4-111	Repeal
R13-4-111	New Section
R13-4-112	Repeal
R13-4-112	New Section
R13-4-113	Repeal
R13-4-114	Repeal
R13-4-114	New Section
R13-4-115	Repeal
R13-4-116	Amend
R13-4-117	Amend
R13-4-118	Amend
R13-4-201	Amend
R13-4-202	Amend
R13-4-203	Amend
R13-4-204	Amend
R13-4-205	Amend
R13-4-206	Amend
R13-4-207	Repeal
R13-4-208	Amend

**2. The specific authority for the rulemaking, including both the authorizing statute, (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-1822

Implementing statutes: A.R.S. §§ 41-1822, 41-1823, 41-1825, 41-1828.01, 41-1072 et seq.

**3. List of all previous notices appearing in the register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 4001 September 7, 2001

Notice of Formal Advisory Committee: 7 A.A.R. 3128, July 20, 2001

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Lyle Mann, Standards and Compliance Manager, AZPOST

Address: 2643 East University Drive  
Phoenix, AZ 85034

Telephone: (602) 223-2514

Fax: (602) 244-0477

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

R13-4-101 amends several definitions to clarify rules and improve procedures.

R13-4-102 amends the rule governing the operation of the Board to reflect changes in enabling statutes.

R13-4-103 deletes constables from the exemption from certification and renames peace officer categories in a more meaningful way. The deletion is made to bring the rule into compliance with an Attorney General's opinion concerning the statutory basis for the rule. This rule also sets forth the procedures for applying for certification and the applicable time-frames.

R13-4-104 establishes the concept of lapse of certification. It clarifies the time of inactivity before lapse and states that lapse in one category is not contingent upon certification in another.

R13-4-105 maintains the same minimum qualifications for appointment. It permits an agency to make a conditional offer of employment prior to the medical examination to comply with the Americans with Disabilities Act. It requires the use of a polygraph examination to verify the applicant's statements of background and qualifications. It also corrects the reference to Arizona Department of Corrections rules that have been repealed.

R13-4-106 clarifies the background investigation requirements by specifying actions required of the applicant and the appointing agency, including the parameters of the polygraph examination.

R13-4-107 updates the medical requirements for peace officers to comply with the Americans with Disabilities Act and simplifies the procedure to allow the use of a Board-trained physician to review diagnoses of a non-Board trained physician.

R13-4-108 lengthens the time for retention of agency records to better serve the public policy behind A.R.S. § 41-1828.01.

R13-4-109 simplifies the causes for disciplinary action, removes suspension for failure to complete continuing training, and clarifies that failure to request a hearing constitutes a waiver of the right to a hearing.

R13-4-109.01 adds provisions that permit the Board to restrict the duties of a peace officer if the officer fails to complete the required continuing and proficiency training or firearms qualification.

R13-4-110 incorporates the new peace officer category classifications and creates a two-track testing process for waiver of the peace officer basic course. This process will allow peace officers with ample recent training and experience to take a test covering only Arizona-specific topics and those with less experience or training, or less recent experience or training, to take a comprehensive test of the entire basic peace officer course.

R13-4-111 clarifies the training and firearms requirements for retaining peace officer certification. It also establishes the process by which outside vendors may provide the required training.

R13-4-112 contains the statutorily required time-frames.

R13-4-113 is repealed and all requirements are now incorporated in R13-4-111.

R13-4-114 specifies the components necessary for approval as a Board prescribed course, including instructor requirements and categories, and curriculum details.

R13-4-115 regarding certified schools is being eliminated because the Board determined it was not necessary to maintain certified schools in order to conduct effective and efficient in-service training.

R13-4-116 eliminates codified curricula for two categories of peace officers due to the lack of job-task analysis validation information. It also incorporates those items from the repealed R13-4-115 that apply to academies and adds disciplinary provisions and cessation of approval for academies.

R13-4-117 is amended to reflect changes in terminology and appropriate writing style.

R13-4-118 increases the time in which to request a rehearing or review to 30 days, and to 15 days for a response to comply with court decisions, and is amended to ensure conformity with current laws.

R13-4-201 conforms the definition of "experimentation with drugs" to the Article one definition.

R13-4-202 amends the reference to medical examinations to reflect the exemption from rulemaking granted the Department of Corrections several years ago and where applicable, be consistent with R13-4-105.

R13-4-203 conforms this Section with R13-4-106, where applicable.

R13-4-204 conforms this Section with the applicable Sections of Article 1.

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R13-4-205 provides flexibility to the Board and the Department of Corrections by eliminating the requirement that the approved curriculum for state correctional officers be 285 hours and incorporates a time-frame for the issuance of a certificate of completion. This Section now conforms to the applicable portions of R13-4-111 and R13-4-116.

R13-4-206 is amended to reflect appropriate writing style and to incorporate the requirements of R13-4-207.

R13-4-207 is repealed and all requirements incorporated into R13-4-206.

R13-4-208 clarifies that additional training is not needed for waiver applicants.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

As a result of the proposed rule changes, the Board, certified peace officers, law enforcement agencies, and applicants will experience minimal economic impact. The addition of the polygraph as a requirement will pose a zero to modest cost upon agencies because the vast majority of agencies have been using the polygraph voluntarily for many years and the rest have used it for at least 18 months. The medical examination procedure has the potential to decrease costs to agencies for procuring the examinations because it removes a review step. Costs to the Board increase minimally due to the training of physicians, but decrease in a similar amount by causing fewer examination reviews. The balance of the rules are not likely to have a measurable effect on consumers, small business, or public or private individuals or entities. The public is invited to provide input on the accuracy of this summary.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Lyle Mann, Standards and Compliance Manager

Address: 2643 East University Drive  
Phoenix, AZ 85034

Telephone: (602) 223-2514

Fax: (602) 244-0477

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding is scheduled for 9:00 a.m., on March 26, 2002, at Arizona Peace Officer Standards and Training Board, 2643 East University Drive, Phoenix, AZ. Oral and written comments about the proposed rules may be submitted to the person identified in item #4 until 5:00 p.m. on the 31st day following this publication in the *Register*.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rule follows:**

**TITLE 13. PUBLIC SAFETY**

**CHAPTER 4. ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section

R13-4-101. Definitions

R13-4-102. Internal Organization and Control of the Board

R13-4-103. Certification of Peace Officers

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R13-4-104.	Peace Officer Category Restrictions
R13-4-105.	Minimum Qualifications for Appointment
R13-4-106.	Background Investigation Requirements
R13-4-107.	Medical Requirements
R13-4-108.	Agency Records and Reports
R13-4-109.	Denial, Revocation, Suspension <del>and or</del> Cancellation of Peace Officer Certified Status
<u>R13-4-109.01.</u>	<u>Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies</u>
R13-4-110.	Basic Training Requirements
R13-4-111.	<del>Continuing Training Requirements</del> <u>Certification Retention Requirements</u>
R13-4-112.	<del>Proficiency Training Requirements</del> <u>Time-frames</u>
R13-4-113.	<del>Firearms Qualification Requirements</del> <u>Repealed</u>
R13-4-114.	<del>Certified Instructor Requirements</del> <u>Board Prescribed Course Requirements</u>
R13-4-115.	<del>Certified School Requirements</del> <u>Repealed</u>
R13-4-116.	Academy Requirements
R13-4-117.	Grant Applications and Reimbursements
R13-4-118.	Hearings

**ARTICLE 2. CORRECTIONAL OFFICERS**

Section

R13-4-201.	Definitions
R13-4-202.	Uniform Minimum Standards <del>for Appointment</del>
R13-4-203.	Background Investigation
R13-4-204.	Records and Reports
R13-4-205.	Basic Training Requirements
R13-4-206.	Continuing Training <u>Including Firearms Qualification</u>
R13-4-207.	<del>Firearms Qualification Requirements</del> <u>Repealed</u>
R13-4-208.	<del>Reinstatement and</del> Re-employment of State Correctional Officers

**ARTICLE 1. GENERAL PROVISIONS**

**R13-4-101. Definitions**

In this Article, unless the context otherwise requires:

1. "Academy" means ~~a certified school which conducts the~~ an entity that conducts a Board prescribed ~~a facility at which the basic peace officer basic course, specialty officer basic course or the limited reserve officer limited-authority basic course.~~
2. "Agency" means a ~~lawfully empowered~~ law enforcement entity empowered by the state of Arizona.
3. "Appointment" means the selection by an agency of a person to be a peace officer or peace officer trainee.
4. "Approved training program" means a course of instruction ~~which has been approved by the Board for reimbursement; that meets Board-prescribed course requirements.~~  
"Board" means the Arizona Peace Officer Standards and Training Board.  
"Board-trained physician" means an occupational medicine specialist or a physician who has attended a Board course on peace officer job functions.
5. "Cancellation" means the annulment of certified status ~~without prejudice to reapply for certification.~~
6. "Certified" means approved by the Board as being in compliance with ~~these rules~~ A.R.S. Title 41, Chapter 12, Article 8 and this Chapter.
7. "Denial" means the refusal of the Board to grant certified status.  
"Dangerous drug or narcotic" means a substance identified in Arizona Revised Statutes as being a dangerous drug or narcotic.  
"Experimentation" means the illegal use of marijuana, a dangerous drug, or narcotic as described in R13-4-105(B) and (C).  
"Full-authority peace officer" means a peace officer whose authority to enforce the laws of this state is not limited by this Chapter.  
"Lapse" means the expiration of certified status.  
"Limited-authority peace officer" means a peace officer who is certified to perform the duties of a peace officer only in the presence and under the supervision of a full-authority peace officer.
8. "Limited correctional peace officer" means a peace officer who has authority to perform the duties of a peace officer only while employed by and on duty with the Arizona Department of Corrections, and only for the purposes of guarding, transporting, or pursuing persons under the jurisdiction of the Arizona Department of Corrections.
9. ~~"Limited reserve officer" means a reserve officer with restricted duties except when under direct supervision.~~

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- 10. ~~"Medical consultant" means a physician employed by the Board who is a specialist in occupational medicine.~~
- 11. ~~"Peace officer trainee" means a person recruited and appointed by an agency to attend an academy.~~
- 12. ~~"Physician" means a person licensed to practice allopathic or osteopathic medicine in this or another state.~~
- 13. ~~"Regular peace officer" means a full authority peace officer who is paid a salary.~~
- 14. ~~"Reserve officer" means a full authority peace officer who is not paid a salary.~~  
"Restriction" means the limitation of allowable duties by the Board while retaining certified status.
- 15. ~~"Revocation" means the permanent withdrawal of certified status.~~
- 16. ~~"School administrator" means an individual who has the primary responsibility for directing a certified school or approved training program.~~
- 17. ~~"Service ammunition" means full performance loads equivalent in all respects to that carried on duty. munitions that perform equivalently in all respects when fired during training or qualification to those carried on duty by the peace officer.~~
- 18. ~~"Service handgun" means that particular handgun which the officer carries for use on duty. the specific handgun or equivalent that the peace officer carries for use on duty.~~
- 19. ~~"Specialty officer" means a peace officer whose authority is limited to enforcing specific sections of the Arizona Revised Statutes or Arizona Administrative Code, as specified by the appointing agency's statutory powers and duties.~~  
"Success criteria" means a numerical statement that establishes the performance needed for a person to successfully demonstrate competency in a required knowledge, task or ability.
- 20. ~~"Suspension" means the temporary withdrawal of certified status. for a period of time not to exceed one year.~~
- 21. ~~"Termination" means the end of employment or service with an agency as a peace officer, either through removal, discharge, resignation, retirement, or otherwise.~~

**R13-4-102. Internal Organization and Control of the Board**

- A. ~~Scheduled meetings. The Chairman shall designate the location, date and time of meetings. Notice and the agenda of the meeting shall be made public and provided to each Board member not less than five days in advance of the meeting. The Chair, in consultation with the Board, shall set regular meeting dates of the Board and shall post notice of each regular meeting according to A.R.S. § 38-431.02.~~
- B. ~~Quorum. The following shall constitute a quorum for conducting business:~~
  - 1. ~~On issues dealing with law enforcement, five members of the Board exclusive of members authorized to participate only in corrections business;~~
  - 2. ~~On issues dealing solely with corrections, six members of the Board.~~
- ~~C.~~ B. Meeting agenda. Items for Board consideration must be submitted not later than ten days prior to the scheduled meeting to be placed on the agenda. Items to be placed on the agenda for Board consideration shall be submitted no later than 20 days before the scheduled meeting.
- ~~D.~~ C. Special meetings. Notice of meetings that are not regularly scheduled shall contain the purpose for the meeting. Except in the case of an emergency meeting declared by the Governor or the Chairman Chair, the Chairman Chair shall give at least five days' written notice of the a special meeting to each member of the Board specifying the location, date and time and shall post notice of the special meeting according to A.R.S. § 38-431.02.
- ~~E.~~ D. Subcommittees. The Chairman Chair may appoint subcommittees to inquire into any matter of Board interest. Each subcommittee shall report its findings, conclusions, and recommendations to the Board, in a manner directed by the Chairman Chair.

**R13-4-103. Certification of Peace Officers**

- A. ~~Certified status mandatory. No A person who does is not have certified status by the Board or whose certified status is inactive shall not function as a peace officer or be assigned the duties of a peace officer by an agency, except as provided in subsection (B).~~
- B. ~~Constables and sheriffs~~ Sheriffs are exempt from the requirement of certified status.
- C. ~~A peace officer must person shall~~ satisfy the minimum qualifications and training requirements to receive certified status.
- D. ~~Peace officer categories. The categories for which certified status may be granted are:~~
  - 1. ~~Regular~~ Full-authority peace officer,
  - 2. Specialty peace officer,
  - 3. ~~Reserve~~ Limited-authority peace officer,
  - 4. ~~Limited reserve peace officer;~~
  - 5. ~~Limited correctional peace officer.~~
- E. Application for certification. A person who seeks to be certified as a peace officer shall make application as follows:
  - 1. Submit to an agency an application that contains all documents required by R13-4-105, R13-4-106(A) and (B), and R13-4-107;
  - 2. Obtain an appointment from an agency; and

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3. Obtain either a certificate of graduation from a Board prescribed Peace Officer Basic Course or a certificate of successful completion of the waiver of training process prescribed by R13-4-110(D).

**F.** Establishment or enforcement of qualifications, standards, or training requirements. The Board may waive in whole or in part any provision of this Article upon a finding that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized by the waiver. The Board may place restrictions or requirements on a peace officer as a condition of certified status.

**R13-4-104. Peace Officer Category Restrictions**

**A.** Limited reserve peace officer. A limited reserve peace officer must be in the company of and under the direct supervision and control of a regular peace officer or reserve peace officer when engaged in patrol or investigative activities performed for the purpose of detection, prevention and suppression of crime or the enforcement of criminal and traffic laws of the state, county or municipality, except when duties are restricted to:

1. Traffic direction or crowd control assistance, or
2. Maintenance of public order in the event of riot, insurrection, or disaster.

**A.** Limited-authority peace officer.

1. A limited-authority peace officer shall be in the presence and under the supervision of a full-authority peace officer when engaged in patrol or investigative activities performed to detect, prevent, or suppress crime, or to enforce criminal or traffic laws of the state, county, or municipality.
2. A limited-authority peace officer may perform the following duties without supervision of a full-authority peace officer:
  - a. Directing traffic, or assisting with crowd control; or
  - b. Maintaining public order in the event of riot, insurrection, or disaster.

**B.** Limited correctional peace officer. A limited correctional peace officer shall not engage in high-speed vehicular pursuit operations.

~~**B.C.**~~ Peace officer category change. A certified peace officer may be appointed to another peace officer category within the same agency without the background investigation, fingerprint check, and medical examination required in Section R13-4-105, R13-4-106, and R13-4-107 when these requirements were previously satisfied for appointment if:

1. No more than 30 days have elapsed since the peace officer's termination, and
2. The change is to a category for which the officer is qualified under Section R13-4-110(A).

~~**C.D.**~~ Inactive status. Certified status of a peace officer shall become becomes inactive upon termination.

~~**D.**~~ Limited correctional peace officer. A limited correctional peace officer may only exercise peace officer authority while on duty with the Arizona Department of Corrections, and only for guarding, transporting, or pursuing persons under the jurisdiction of the Arizona Department of Corrections. Limited correctional peace officers are not authorized to engage in high speed vehicular pursuit operations.

**E.** Lapse of certified status. Certified status of a peace officer lapses after three consecutive years on inactive status.

~~**E.F.**~~ Reinstatement from inactive status. A peace officer whose certified status is inactive and has not lapsed may be have certification reinstated if the requirements of R13-4-105 are met for the new appointment, and when-if appointed:

1. In the same peace officer category, or within three years of termination and the requirements of Section R13-4-105 have been met for the new appointment;
2. As a reserve officer or specialty officer from inactive status as a regular peace officer within three years of termination and the requirements of Section R13-4-105 have been met for the new appointment;
3. As a regular peace officer or specialty officer from inactive status as a reserve full-authority peace officer, within six months of termination, and the requirements of Section R13-4-105 have been met for the new appointment.

**G.** Active status as a specialty, limited-authority, or limited correctional peace officer does not prevent lapse of certified status as a full-authority peace officer.

**R13-4-105. Minimum Qualifications for Appointment**

**A.** Prior to Before appointment or attending an academy, a person shall meet the following minimum qualifications:

1. The person shall Be a United States citizen;
2. The person shall Be at least 21 years of age, except that a person may attend an academy if he the person will be 21 prior to before graduating;
3. The person shall Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;
4. The person shall have undergone Undergo a complete background investigation which that meets the standards of Section R13-4-106 except that an applicant a person may begin an academy prior to before the results of the fingerprint check are returned. However, the applicant may person shall not graduate from the academy nor and the agency shall not receive reimbursement for an applicant for which the person's training expenses until a qualifying fingerprint check return result has not been is obtained; The background shall attest to the fact that the person meets mini-

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minimum qualifications, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession and is of good moral character.

5. ~~The person shall have undergone~~ Undergo a medical examination ~~which that~~ meets the standards of Section R13-4-107 within one year ~~prior to~~ before appointment. ~~An agency may make a conditional offer of appointment before the medical examination. An~~ If the medical examination preceding an appointment by was made more than ~~one hundred and eighty~~ 180 days before appointment, the person shall ~~require the submission of~~ submit a written statement ~~indicating from the applicant that his~~ the person's medical condition has not changed since the examination-;
  6. ~~The person shall not have been~~ Not have been convicted of a felony or any offense that would be a felony if committed in Arizona-;
  7. ~~The person shall not have been~~ Not have been dishonorably discharged from the United States Armed Forces-;
  8. ~~The person shall not have been~~ Not have been previously denied certified status, have certified status revoked, or have his current certified status ~~under suspension~~ suspended-; pursuant to Section R13-4-109;
  9. ~~The person shall not~~ Not have illegally sold, produced, cultivated, or transported marijuana for sale-;
  10. ~~The person shall not~~ Not have illegally used marijuana for any purpose within the past three years-;
  11. ~~The person shall not~~ Not have ever illegally used marijuana other than for experimentation-;
  12. ~~The person shall never~~ Not have ever illegally used marijuana while employed or appointed as a peace officer-;
  13. ~~The person shall not~~ Not have illegally sold, produced, cultivated, or transported for sale any dangerous ~~drugs~~ drug or ~~narcotics~~ narcotic, other than marijuana-;
  14. ~~The person shall not~~ Not have illegally used a dangerous ~~drugs~~ drug or ~~narcotics~~ narcotic, other than marijuana, for any purpose within the past seven years-;
  15. ~~The person shall never~~ Not have ever illegally used a dangerous ~~drugs~~ drug or ~~narcotics~~ narcotic other than for experimentation-;
  16. ~~The person shall never~~ Not have ever illegally used a dangerous ~~drugs~~ drug or ~~narcotics~~ narcotic while employed or appointed as a peace officer-;
  17. ~~The person shall not~~ Not have a pattern of abuse of prescription medication-;
  18. ~~The person shall have undergone and passed a Board approved drug screening test, or~~ Undergo a polygraph examination ~~which that polygraph examination relates to the provisions of subsection (A)(9)-(17) meets the requirements of~~ R13-4-106, unless prohibited by law-;
  19. ~~The person shall not have been~~ Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with ~~such a frequency~~ within the past three years ~~so as to indicate that indicates a disrespect for traffic laws and or a disregard for the safety of other persons on the highway~~ within the past three years-;
  20. ~~The person shall have read~~ Read the code of ethics in subsection (E) and ~~affirmed~~ affirm by signature the person's understanding and agreement to abide by the code.
- B. The ~~illegal~~ use of ~~an illegal drug~~ marijuana, or a dangerous drug or narcotic is presumed to be not for experimentation if:
1. The use of marijuana exceeds a total of 20 times or exceeds five times since the age of 21 years-;
  2. The use of any dangerous ~~drug~~ drugs or ~~narcotic~~ narcotics, other than marijuana, in any combination exceeds a total of five times, or exceeds one time since the age of 21 years.
- C. An agency head who wishes to appoint ~~an applicant~~ a person whose ~~illegal drug~~ illegal use of marijuana, or a dangerous drug or narcotic is presumed to be not for experimentation under this Section shall petition the Board for a determination that, given the unique circumstances of the ~~applicant's person's~~ person's use, ~~it the use was~~ for experimentation. The petition shall:
1. Specify the type of illegal drugs used, the number of uses, the ~~age(s)~~ age at the time of each use, and ~~shall~~ describe the ~~methods~~ method by which the information came to the agency's attention and any ~~attempts~~ attempt made to verify the accuracy of the information, applicant's report.
  2. State the factors the agency head wishes the Board to consider in making its determination. Those factors may include:
    - a. The duration of usage,
    - b. The motivation for use,
    - c. The time elapsed since the last use,
    - d. How the drug was obtained,
    - e. How the drug was ingested,
    - f. Why the applicant stopped using the drug, and
    - g. Any other ~~factors~~ factor the agency head believes ~~are~~ is relevant to the Board's determination.
- D. With respect to a limited correctional peace ~~officers~~ officer, previous completion of ~~the~~ a background investigation conducted ~~pursuant to~~ under R13-4-203 and ~~the~~ a medical examination conducted under pursuant to A.A.C. Title 5, Chapter 4, Article 5, R13-4-202(A)(6), satisfy satisfies the requirements of this Section when there has been no interruption of employment by the agency, except that:
1. The ~~person~~ limited correctional peace officer shall submit to ~~drug testing~~ a polygraph examination as required by subsection (A)(18); ~~of this rule, and~~



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2. ~~The agency shall make a current ACIC/NCIC criminal history inquiry. The agency shall query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH) and review the returns to determine that the person meets the requirements of this Section.~~
- E. Code of Ethics. ~~The~~ Because the people of the state of Arizona ~~have conferred~~ confer upon all peace officers the authority and responsibility to safeguard lives and property within constitutional parameters, ~~Because of this special trust and confidence, officers are expected to personally make a~~ peace officer shall commit to the following ~~commitment~~ Code of Ethics and shall affirm the peace officer's commitment by signing the Code.  
"I will exercise self-restraint and be constantly mindful of the welfare of others. I will be exemplary in obeying the laws of the land and loyal to the state of Arizona; and my agency and its objectives and regulations. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept secure unless revelation is necessary in the performance of my duty. I will never take selfish advantage of my position and will not allow my personal feelings, animosities, or friendships to influence my actions or decisions. I will exercise the authority of my office to the best of my ability, with courtesy and vigilance, and without favor, malice, ~~or~~ ill will, and or ~~without~~ compromise. I am a servant of the people and I recognize my position as a symbol of public faith. I accept it as a public trust to be held so long as I am true to the law and serve the people of Arizona."

**R13-4-106. Background Investigation Requirements.**

- A. Personal history statement. A person who seeks to be appointed ~~Each candidate for appointment~~ shall complete and submit to the appointing agency a personal history statement on a form prescribed by the Board ~~prior to~~ before the start of ~~the~~ a background investigation. The history statement shall contain answers to questions ~~which~~ that aid in determining whether ~~a~~ the person is eligible for certified status as a peace officer.
- B. Investigative requirements for the applicant. ~~The background investigation shall include the following:~~ To assist with the background investigation, a person who seeks to be appointed shall provide the following:
  1. Proof of United States citizenship. ~~Copy A copy of a birth certificate, United States passport, or United States naturalization papers shall be is acceptable proof. Proof of citizenship shall be retained by the agency.~~
  2. Proof of education. ~~Copy A copy of a diploma, certificate, or transcript shall be is acceptable proof. Proof of education shall be retained by the agency.~~
  3. Record of any military discharge. A copy of the Military Service Record ~~Form~~ (DD Form 214, Member 4) ~~shall be is~~ acceptable proof. ~~Proof of any military discharge shall be retained by the agency.~~
  4. ~~Department of Transportation driving record. A copy of the Motor Vehicle Division record on the applicant's driving history shall be retained by the agency.~~
  4. Personal references. The names and addresses of at least three people who can provide information as personal references.
  5. ~~Personal reference and previous employer inquiries. Information provided by personal references and at least three previous employers of the applicant shall be recorded and retained by the agency.~~
  5. Previous employers or schools attended. The names and addresses of all employers and schools attended within the previous five years.
  6. ~~Law enforcement agency records. Law enforcement agency records in jurisdictions where the applicant has lived or worked in the past five years shall be checked. Information obtained shall be recorded and retained by the agency.~~
  6. Residence history. A listing of the complete address for every location that the person has lived in the last five years.
  7. ~~Federal Bureau of Investigation and Department of Public Safety records. The applicant shall have undergone a fingerprint check with these departments. A copy of the Fingerprint Card Inventory Sheet shall be retained by the agency.~~
  8. ~~National and Arizona Criminal Information Center checks. A copy of the NCIC/ACIC response shall be retained by the agency.~~
  9. ~~The results of a Board approved drug screening test, or polygraph examination, as required by R13-4-105.~~
- C. Investigative requirements for the agency. A complete background investigation includes the following inquiries and a review of the returns to determine that the person meets the requirements of R13-4-105, and that the person's personal history statement is accurate and truthful. For each person seeking to be appointed, the appointing agency shall:
  1. Query all the law enforcement agency records in jurisdictions listed in subsection B(5) and (6).
  2. Query the motor vehicle division driving record from any state listed in subsection B(5) and (6).
  3. Complete and submit a Fingerprint Card Inventory Sheet to the Federal Bureau of Investigation and Arizona Department of Public Safety for query.
  4. Query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state listed in subsection (B) (5) and (6).
  5. Contact all personal references and employers listed in subsection (B)(4) and (5) and document the answers to inquiries concerning whether the person meets the standards of this Section.

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6. Administer a polygraph examination, unless prohibited by law. The results shall include a detailed report of the pre-test interview and any post-test interview and shall cover responses to all questions that concern minimum standards for appointment as required by R13-4-105, truthfulness on the personal history statement, and the commission of any crimes.
7. If the results of the background investigation shows that the person meets minimum qualifications for appointment, has not engaged in conduct or a pattern of conduct that would jeopardize public trust in the law enforcement profession, and is of good moral character, complete a report that attests to that finding.

**R13-4-107. Medical Requirements**

**A. Medical Categories.** The medical categories for certification are:

1. Category I. No medical, physical, or mental circumstance exists that limits the person's ability to effectively perform all the duties of a peace officer or creates a reasonable probability of substantial harm to the person or others;
2. Category II. A medical, physical, or mental circumstance exists that absent a reasonable accommodation by the appointing agency would limit the person's ability to effectively perform all the duties of a peace officer or create a reasonable probability of substantial harm to the person or others;
3. Category III. A medical, physical, or mental circumstance exists that despite reasonable accommodation by the appointing agency limits the person's ability to effectively perform all the duties of a peace officer or creates a reasonable probability of substantial harm to the person or others.

**A.B. Medical categories: Eligibility for certified status.** The following categories are established for the purpose of classifying medical circumstances used in to determine eligibility for certified status:-

1. ~~Category I. No medical, physical, or mental circumstance exists which would limit the person's ability to effectively perform the duties of a peace officer on a continuing basis or creates a reasonable probability of substantial harm to the person or others. A person in this category I may be certified appointed when in compliance with the person meets all other standards qualifications.~~
2. ~~Category II. medical, physical, or mental circumstance, exists which could limit the person's ability to effectively perform the duties of a peace officer on a continuing basis or may create a reasonable probability of substantial harm to the person or others. An agency shall determine if the person's medical, physical, or mental circumstance will interfere with his ability to perform the duties of a peace officer and if so, whether reasonable accommodations can be made which will allow him to function of as a peace officer on a continuing basis without creating a reasonable probability of substantial harm to the person or others. If an agency determines that the medical, physical, or mental circumstance does not affect the ability of the person to perform the duties of a peace officer or that reasonable accommodations can be made and If an agency chooses to make the required accommodation and appoint the a person in Category II, and the examination was made by a Board-trained physician, the appointment may be made without further action by the Board. However, if the examining physician has not been trained by the Board, a medical review as prescribed in under subsection (H) by a Board-trained physician is required to determine eligibility for certified status and if the Board-trained physician agrees with the finding of the other physician, the appointment may be made without further action by the Board.~~
3. ~~Category III. A medical, physical or mental circumstance exists where it is not possible to make reasonable accommodations which allow a person to perform the duties of a peace officer on a continuing basis without creating a reasonable probability of substantial harm to the person or others, or which substantially impairs the person's ability to function as a peace officer. A person in this category shall not be granted certified status.~~
3. Category III. If an agency wishes to appoint a person in Category III, the agency shall submit a letter to the Board asking for a determination of eligibility for certification. The letter shall include a report from a Board-trained physician identifying the medical limitations and the proposed accommodations. The Board shall determine the person's eligibility for certified status, based upon whether reasonable accommodations can be made by the appointing agency and if by placing restrictions or requirements on the person as a condition of certified status under R13-4-103 (F), the person can function as a peace officer without endangering the person or others, for the duties authorized within the restriction.

**B. Medical, physical or mental circumstances in Category III include:**

1. ~~Contagious hepatitis;~~
2. ~~Contagious tuberculosis;~~
3. ~~Total hearing loss;~~
4. ~~Visual acuity worse than 20/40 after correction.~~

**C. Medical, physical, or mental circumstances in Category II and Category III include:**

1. Angina pectoris;
2. Asthma;
3. Cancer-metastatic or leukemia;
4. Cardiac arrhythmias or murmurs;
5. Cerebral vascular accident;

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6. Chest pains of unknown origin;
  7. Contagious hepatitis;
  8. Contagious tuberculosis;
  - 7-9. Chronic respiratory disease;
  - 8-10. Diabetes, insulin dependent or ketosis-prone;
  - 9-11. Fixation of major joint;
  - 10-12. Hearing not specified in ~~subsections (B) or (D)~~ subsection (C);
  - 11-13. Herniated lumbar disc;
  - 12-14. Hypertension, uncontrolled;
  - 13-15. Inguinal hernia;
  - 14-16. Liver or renal dysfunction;
  - 15-17. Migraine headache;
  - 16-18. Myocardial infarction, history of;
  17. ~~Neuroses;~~
  - 18-19. Paralysis;
  - 19-20. Pilonidal cyst;
  - 20-21. Prosthetic device, e.g., limbs, hearing aid, colostomy;
  - 21-22. Recurrent dislocation of a major joint;
  - 22-23. Schizophrenia or manic depressive psychosis;
  - 23-24. Scoliosis greater than 15 degrees;
  - 24-25. Seizure disorders;
  - 25-26. ~~Current substance~~ Substance abuse;
  - 26-27. Valvular heart disease, uncorrected;
  - 27-28. Vision not specified in ~~subsections (B) or (D)~~ subsection (C) or monocular vision;
  - 28-29. Wasting disease, chronic, e.g., such as multiple sclerosis, myasthenia gravis, or amyotrophic lateral sclerosis;
  - 29-30. Any other medical, physical, or mental circumstance ~~which that~~ the examining physician determines may interfere with the person's ability to ~~effectively~~ function as a peace officer ~~effectively on a continuing basis~~ or may create a reasonable probability of substantial harm to the person or others.
- D. Vision and hearing. Vision and hearing meeting the following requirements ~~shall be~~ are classified in Category I:
1. Visual acuity of:
    - a. 20/20 or better uncorrected; or
    - b. 20/20 or better, corrected by spectacles or hard contact lenses, if uncorrected acuity is 20/80 or better; ~~or~~ The applicant shall demonstrate satisfactory adaptation to the contact lenses; or
    - c. 20/20 or better, corrected by soft contact lenses, if the uncorrected acuity is 20/200 or better. ~~The candidate applicant must shall~~ demonstrate satisfactory adaptation to the contacts.
  2. Vision capable of distinguishing basic color groups against a favorable background.
  3. Peripheral vision:
    - a. ~~Which That~~ does not reveal scotoma or quadrantonopia; or
    - b. In which vision perimeter testing is intact at 170 degrees.
  4. Uncorrected hearing with no loss greater than 25 db in the 500, 1000, 2000, or 3000 hertz frequencies as measured by an audiometer.
- E. Medical history. ~~Each applicant must~~ A person who seeks to be appointed shall supply to the examining physician a statement of the person's medical history ~~which that~~ includes past and present diseases, injuries, operations, immunization status, and medications taken.
- F. Medical examination. The examining physician shall review the ~~candidate's~~ person's medical history and examine the ~~candidate person~~. ~~The physician shall indicate if any of the medical, physical, or mental circumstances in Category II and III exist describe how any circumstances in Category II affect the person's ability to perform the duties of a peace officer, specify the type and duration of any treatment required.~~
- G. Examination report. The examining physician shall record the findings of the medical examination on a form prescribed by the Board. The physician shall indicate whether a medical, physical, or mental circumstance in Category II or III exists, describe how the circumstance affects the person's ability to perform the duties of a peace officer, and specify the type and duration of any treatment required. In all Category II or III cases, the physician shall advise the appointing agency in writing of any limitation on the person's ability to function as a peace officer.
- H. Category II and Category III reviews. The diagnosis of a person with a circumstance classified in Category II or Category III by ~~his an~~ an examining physician who is not Board trained shall be reviewed by ~~the medical consultant~~ a Board-trained physician if the agency intends to appoint the person. ~~The medical consultant~~ Board-trained physician may review prior medical examination reports ~~of concerning the applicant person~~ and contact examining physicians to review their findings. If required by the Board-trained physician, An an independent medical examination may be required may be conducted and the applicant person may be referred to a specialist in the appropriate medical field.

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- ~~I. Medical consultant's report. The medical consultant shall advise the Board in writing of any limitations on the person's ability to function as a peace officer or any medical, physical, or mental circumstances which creates a reasonable probability of substantial harm to the person or others if he were to perform the duties of a peace officer.~~
- ~~J. Board action. The Board shall determine the person's eligibility for certified status based upon a finding of whether reasonable accommodations can be made by the agency to allow the person to function as a peace officer without endangering himself or others. The Board may place restrictions or requirements on the person as a condition of certified status.~~
- ~~K-L. Additional findings. The requesting appointing agency may submit to the Board results of additional examinations or tests, or obtain additional opinions from other licensed physicians. Additional findings may be considered by the Board in reviewing a candidate's eligibility for certified status.~~
- ~~L. Costs of examinations. The expense of the review of previously conducted medical examinations by the medical consultant shall be the responsibility of the Board. The expense of additional examinations, tests, or opinions, shall be borne by the person or requesting agency.~~

**R13-4-108. Agency Records and Reports**

- A. Agency reports. On forms prescribed by the Board, an agency shall submit:
  - 1. A report by the agency head attesting that the requirements of ~~Section R13-4-105 have been~~ are met for each person appointed. The report shall be submitted to the Board ~~prior to~~ before a person ~~attending~~ attends an academy or ~~performing~~ performs the duties of a peace officer.
  - 2. ~~A copy of any Arizona Department of Public Safety or Federal Bureau of Investigation criminal history record, which includes any arrest or conviction of a person appointed by the agency. The copy of the record shall be submitted to the Board upon receipt by the agency.~~
  - 3-2. A report of the termination of a peace officer. The report shall be submitted to the Board within 15 days of the termination and include:
    - a. The nature of the termination and effective date;
    - b. A detailed description of any termination for cause;
    - c. A detailed description of, and supporting documentation for, any cause existing for suspension or revocation of certified status.
- B. Agency records. ~~An Agency~~ agency records shall be made make its records available upon the request of the Board or staff. The agency shall maintain the following for each person for whom certification is sought:
  - 1. An application file that contains all of the information required in R13-4-103 (E) and R13-4-106 (C) for each person appointed for certification as a peace officer.
  - ~~1-2.~~ A copy of reports submitted ~~pursuant to~~ under subsection (A);
  - ~~2-3.~~ A signed copy of the affirmation to the Code of Ethics required ~~pursuant to~~ Section under R13-4-105;
  - ~~3-4.~~ A written report of the results of ~~all a~~ completed or partially completed background ~~investigations~~ investigation and all written documentation obtained or recorded ~~pursuant to~~ under ~~Section R13-4-106;~~
  - ~~4-5.~~ A completed medical report required ~~pursuant to~~ under ~~Section R13-4-105;~~
  - ~~5-6.~~ A record of all continuing training, proficiency training, and firearms qualifications conducted ~~pursuant to~~ under ~~Section R13-4-111, R13-4-112 and R13-4-113.~~
- C. Record retention. An agency shall maintain the records required by this Section as follows:
  - 1. For applicants investigated ~~pursuant to~~ under ~~Section R13-4-106 who are not appointed;~~ records shall be retained for one year three years;
  - 2. For applicants who are appointed: ~~shall be retained for five years from the date of appointment~~ termination, except records retained ~~pursuant to~~ under subsection (B)(6), ~~which shall be retained for three years~~ following completion of training.

**R13-4-109. Denial, Revocation, Suspension, and or Cancellation of Peace Officer Certified Status**

- A. Causes for denial, suspension, or revocation. The Board may deny certified status or suspend or revoke the certified status of a peace officer for:
  - 1. Failure to satisfy a minimum qualification for appointment listed in R13-4-105;
  - ~~1-2.~~ Willful falsification of Willfully providing false information to in connection with obtain obtaining or reactivating certified status;
  - ~~2-3.~~ A medical, physical, or mental disability ~~which that~~ substantially ~~impairs~~ limits the person's ability to perform the duties of a peace officer effectively, or may create a reasonable probability of substantial harm to the person or others, for which a reasonable accommodation cannot be made;
  - ~~3-4.~~ A violation Violation of a restriction or requirement for certified status ~~pursuant to~~ imposed under ~~Section R13-4-109.1, R13-4-107(J) or R13-4-103(F); or Section R13-4-118(A)(1);~~
  - ~~4-5.~~ Addiction to or the The unlawful use of marijuana, a dangerous drug, or a narcotics narcotic; or dangerous drugs;
  - ~~5-6.~~ Unauthorized use of or being under the influence of spirituous liquor on duty; or excessive use of spirituous liquor which would tend to discredit the law enforcement profession;

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~~6-7.~~ The commission of a felony, an offense ~~which that~~ would be a felony if committed in this state, or an offense involving dishonesty, unlawful sexual conduct, or physical violence;

~~7-8.~~ Malfeasance, misfeasance, or nonfeasance in office; or

~~8-9.~~ Any ~~other~~ conduct or pattern of conduct that ~~would tend~~ tends to disrupt, diminish, or otherwise jeopardize public trust in the law enforcement profession.

~~B.~~ Additional causes for suspension. Certified status may be suspended when a peace officer fails to satisfy the requirements of Sections R13-4-111, R13-4-112 or R13-4-113. The suspension shall remain in effect until the requirements are met and certified status shall be reinstated upon notice to the Board of their satisfaction.

~~C.B.~~ Cause for cancellation. The Board ~~may shall~~ cancel the certified status of a peace officer if the Board upon determining determines that the person was not qualified when certified status was granted, and revocation is not warranted.

~~D.C.~~ Cause for mandatory revocation. Upon the receipt of a certified copy of ~~the a~~ judgment of a felony conviction of a peace officer, the Board shall revoke certified status of the peace officer.

~~E.D.~~ Action by the Board. Upon receipt of ~~a report information~~ that cause exists ~~for the denial to deny certification, or to cancellation cancel, suspension suspend, or revocation of revoke~~ the certified status of a peace officer, the Board shall determine ~~the whether~~ action is to be ~~taken~~ initiated regarding the retention of certified status. The Board may conduct additional inquiries or investigations to obtain sufficient information to make a fair determination in making its determination.

~~F.E.~~ Notice of action. The Board shall notify the affected person of ~~a decision to pursue a denial, cancellation, suspension or revocation~~ Board action to initiate proceedings regarding certified status for a cause listed under subsection (A) or (B). The notice shall be ~~delivered by certified mail or personal delivery~~ served as required by A.R. S. § 41-1092.04, and specify the cause for the action. Within ~~ten~~ 30 days of delivery, the person named in the notice shall advise the Board or its staff in writing whether a hearing is requested, ~~if he intends to appear before the Board and if he will be represented by an attorney~~. Failure to file a written request for hearing at the Board offices within 30 days of service of the notice constitutes a waiver of the right to a hearing.

~~G.F.~~ Effect of agency action. ~~No action~~ Action by an agency or a decision resulting from an appeal of that action ~~shall does not~~ preclude action by the Board to deny, cancel, suspend, or revoke the certified status of a peace officer.

**R13-4-109.01. Restriction of Certified Peace Officer Status: Training or Qualification Deficiencies**

**A.** Restricted status. The Board shall restrict certified status if a peace officer fails to satisfy the requirements of R13-4-111.

1. The Board shall consider reports of training or qualification deficiencies at a regularly scheduled public meeting and provide a peace officer alleged to have a training or qualification deficiency the opportunity to be heard without referral to an independent hearing officer. The issue at the public meeting shall be restricted to whether the peace officer has successfully completed the required training or qualification and can produce documentation to verify it.

2. A restriction shall remain in effect until the training or qualification requirement is met and the peace officer files written verification of the training or qualification with the Board.

3. The Board shall provide notice of action and hearing, or reinstatement following a restriction under this Section by regular mail to the peace officer at the employing agency address. The Board shall provide a copy of the restriction or reinstatement notice by regular mail to the agency head.

**B.** Firearms qualification. If a peace officer fails to satisfy R13-4-111(C), the peace officer shall not carry or use a firearm on duty.

**C.** Continuing and proficiency training. If a peace officer fails to satisfy R13-4-111(A) or (B), the peace officer shall not engage in enforcement duties. The restricted peace officer shall not carry a firearm, wear or display a badge, wear a uniform, make arrests, perform patrol functions, or operate a marked police vehicle.

**R13-4-110. Basic Training Requirements**

**A.** Required training for certified status. ~~No peace officer~~ A person shall ~~not~~ receive certified status or ~~be used as a peace officer perform the duties of a peace officer~~ until the ~~individual person~~ has successfully completed ~~completes~~ basic training as follows:

1. A ~~regular or reserve~~ full-authority peace officer shall complete the 585-hour ~~basie~~ full-authority peace officer basic course, specified in R13-4-116, at an academy.

2. A specialty peace officer shall complete ~~either the 280-hour~~ a Board-prescribed specialty peace officer basic course or the 585-hour basie full-authority peace officer basic course, specified in R13-4-116, at an academy.

3. A ~~limited reserve officer~~ limited-authority peace officer shall complete ~~either the 200-hour~~ a Board-prescribed limited reserve limited-authority peace officer basic course or the 585-hour basie full-authority peace officer basic course, specified in R13-4-116, at an academy.

4. A limited correctional peace officer shall complete the correctional service officer basic course specified in R13-4-205 and the 48-hour limited correctional peace officer supplement specified in R13-4-116, at the Arizona correctional officer training academy.

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- B.** Exceptions. The training requirements in subsection (A) ~~may be~~ are waived when ~~using a peace officer an agency uses a person:~~
1. During a riot, insurrection, disaster, or other event ~~which has exhausted that exhausts the manpower officer resources of an the agency and the peace officer person is attending an academy; or~~
  2. During ~~an approved a~~ field training program ~~which that~~ is a component of a basic training program at an academy, when the ~~peace officer person~~ is under the direct supervision and control of a certified peace officer.
- C.** Firearms training required.
1. ~~Unless otherwise specified in this Section, a peace officer shall complete the~~ The firearms qualification course ~~courses required in R13-4-113 R13-4-116 (E) shall, unless otherwise specified in this rule Section, be successfully completed prior to any before the peace officer carrying carries a firearm in the course of duty.~~
  2. ~~Prior to~~ Before carrying a firearm in the course of duty, a limited correctional peace officer shall:
    - a. Meet the requirements of R13-4-207, and
    - b. Complete a night-time firearms qualification shoot based on the course of fire ~~set forth~~ described in R13-4-207.
- D.** Waiver of required training. A person ~~who is not eligible for reinstatement of certified status as a peace officer whose certified status is lapsed~~ or a person who has functioned in the capacity of a peace officer ~~for in~~ another state or ~~a for~~ a federal law enforcement agency ~~whose training substantially conforms to these rules may apply to the Board for a waiver of required training. If the Board determines that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized, The the Board may shall grant a complete or partial waiver if:~~
1. An application and written verification of previous experience and training are ~~is~~ submitted by an agency on a form prescribed by the Board; ~~Written verification of previous experience and training must accompany the application.~~
  2. The ~~applicant person~~ meets the minimum qualifications listed in R13-4-105;
  3. The person complies with the requirements of R13-4-103(E)(1);
  4. The agency complies with the requirements of R13-4-106(C); and
  - 3.5. ~~The applicant person successfully completes a an comprehensive examination measuring his the person's comprehension of the peace officer basic course as follows: The examination shall be approved by the Board and include a written test and practical demonstrations of proficiency in firearms, physical conditioning, defensive driving and pursuit operations:~~
    - a. A person who, during the last three years, has at least two years of experience as a peace officer in another state or for a federal law enforcement agency, and whose basic training and in-service training records demonstrate substantial comparability to Arizona's full-authority peace officer basic course, shall take an examination composed of legal and liability issues specific to Arizona from topical areas listed in R13-4-116(E)(1);
    - b. A person whose certification is lapsed shall take a comprehensive examination covering all of the functional areas specified in R13-4-116(E)(1); or
    - c. A person whose out-of-state experience does not meet the criteria of subsection (D)(5)(a), but whose basic training and in-service training records demonstrate substantial comparability to Arizona's full-authority peace officer basic course, shall take a comprehensive examination covering all of the functional areas specified in R13-4-116(E)(1); and
  6. In addition to the written test, all qualified persons shall satisfactorily perform practical demonstrations of proficiency in physical aptitude, defensive driving, pursuit operations and firearms, including firearms qualifications, as required under R13-4-116(E)(1).

**R13-4-111. Continuing Training Requirements Certification Retention Requirements**

- A.** Continuing training required. The following requirements apply to certified peace officers:-
1. A regular peace officer or reserve officer shall complete eight hours of continuing training at a certified school each calendar year beginning the year following receipt of certified status.-
  2. A specialty officer or limited reserve officer shall complete eight hours of continuing training at a certified school every three years beginning from the date he received certified status.-
  3. A limited correctional peace officer shall complete eight hours of continuing training every three years beginning on January 1, following the date the individual received certified status and may satisfy the requirements of this rule with training:-
    - a. Approved in R13-4-206;
    - b. Provided by an instructor certified under R13-4-205(C); and
    - c. Addressing a topic area enumerated in subsection (B)(2), of this rule.
- B.** Curriculum. The following curriculum provisions are required for continuing training conducted by a certified school:-
1. The course curriculum must be initially approved as to topic area and substance by the Board and approved thereafter:-
    - a. Each year for regular peace officer and reserve officer curriculum;
    - b. Every three years for specialty officer, limited reserve, and limited correctional peace officer curriculum.
  2. The curriculum shall contain material from one or more of the following topic areas:-

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- a. ~~Search and seizure;~~
  - b. ~~New procedures and technology;~~
  - c. ~~Officer survival techniques;~~
  - d. ~~Management and supervision;~~
  - e. ~~Interviewing and questioning;~~
  - f. ~~Crime prevention;~~
  - g. ~~Arizona Revised Statutes;~~
  - h. ~~Court decisions;~~
  - i. ~~Other law enforcement related topics.~~
- C.** ~~Equivalency credit. If approved by the Board as being equivalent to a certified school, the continuing training requirements may also be satisfied in whole or in part by completion of an equivalent training program conducted by a non-certified school.~~
- 1. ~~Individual requests for Board approval require the submission of:~~
    - a. ~~A petition for equivalency credit describing the training program, the institution or organization providing the training, and the number of hours attended;~~
    - b. ~~A certificate or other verification of attendance.~~
  - 2. ~~Training programs approved on an ongoing basis may meet all or part of the continuing training requirements. Proof of attendance shall be provided upon request of the Board or staff.~~
- A.** Continuing training required.
- 1. The following continuing training standards apply for a peace officer to retain certification:
    - a. A full-authority peace officer shall complete eight hours of continuing training each calendar year beginning January 1, following the date the officer was certified;
    - b. A specialty officer or limited authority peace officer shall complete eight hours of continuing training every three calendar years beginning January 1, following the date the officer was certified;
    - c. A limited correctional peace officer shall complete eight hours of continuing training every three years beginning on January 1, following the date the officer was certified;
  - 2. Continuing training course standards for peace officers.
    - a. The curriculum for a continuing training course shall consist of advanced or remedial instruction on one or more of the topic areas specified in R13-4-116(E)(1);
    - b. The instructor for a continuing training course shall meet the requirements of R13-4-114 (A)(2)(a) or (b); and
    - c. A training provider shall provide to each attendee for audit purposes an attendance verification certificate that includes a statement that the provider believes the course meets the requirements of this Section.
    - d. If the training provider is an agency, the agency shall make available to the Board for audit purposes, attendance rosters and the lesson plan or other information sufficient to determine compliance with this Section; or
    - e. If the training provider is an outside provider, such as an individual, a corporation, business, company, or governmental entities, that does not seek confirmation that the course meets the requirements of this Section under subsection (A)(3)(c), the provider shall provide to the attendees a lesson plan or other information sufficient to determine compliance with this Section; or
    - f. If an outside provider seeks and receives confirmation under subsection (A)(3)(c), the provider shall distribute a copy of the Board's written confirmation to the attendee.
  - 3. Training providers. Courses of continuing training may be conducted by the Board, an agency, or an outside provider.
    - a. All courses for continuing training provided by the Board meet the requirements of this Section;
    - b. Agency provided training meets the requirements of this Section if all the requirements of subsection (A)(2) are met;
    - c. Outside provider training meets the requirements of this Section if all the requirements of subsection (A)(2) are met. The Board shall inform an outside provider in writing whether the course meets these requirements if a course package is submitted to the Board, prior to the training being conducted, that includes:
      - i. A description of the training course that allows the Board to determine whether the course contains advanced or remedial instruction on one or more of the topic areas specified in R13-4-116;
      - ii. The name of the person, or if applicable the institution or organization, providing the training with sufficient information to allow the Board to determine whether the requirements of R13-4-114(A)(2)(a) or (b) are met;
      - iii. A course schedule listing the number of instructional hours; and
      - iv. An attestation that the training provider shall make the lesson plan or other information sufficient to determine compliance with this Section available to the Board for audit purposes, and that the requirements of subsection (A)(2)(b) will be met.
      - v. The Board's confirmation that a course conducted by an outside provider meets the requirements of this Section is effective as long as the information submitted to the Board remains accurate and unchanged.
  - 4. A limited correctional peace officer may also satisfy the requirements of this Section with training:
    - a. Approved under R13-4-206;

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- C. Firearms qualification required.** A peace officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each calendar year beginning the year following certification. The peace officer shall qualify by complet-



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ing a Board prescribed firearms qualification course, using a service handgun and service ammunition, and a Board prescribed target identification and judgment course.

1. Firearms qualification course standards.
  - a. A firearms qualification course is a course prescribed under R13-4-116(E)(1), or
  - b. A course determined by the Board to measure firearms competency at least as accurately as courses prescribed under R13-4-116(E)(1).
  - c. A course shall include:
    - i. A timed accuracy component,
    - ii. A type and style of target that is equal to, or more difficult than, targets used under R13-4-116(E)(1); and
    - iii. A success criterion that is equal to, or more difficult than, criterion used under R13-4-116(E)(1).
2. Firearms target identification and judgment course standards
  - a. A firearms target identification and judgment course is a course prescribed under R13-4-116(E)(1), or
  - b. A course determined by the Board to measure target identification and judgment competency at least as accurately as courses prescribed under R13-4-116(E)(1).
  - c. A course shall include:
    - i. A timed accuracy component,
    - ii. A type and style of target discrimination test that is equal to, or more difficult than, those used under R13-4-116(E)(1), and
    - iii. A success criterion that is equal to, or more difficult than, criterion used under R13-4-116(E)(1).
3. A firearms qualification, and target identification and judgment courses shall be instructed by a firearms instructor meeting the requirements of R13-4-114 (A)(2)(c).

**R13-4-112. Proficiency Training Requirements Time-frames**

- ~~A. Proficiency training required. All peace officers below the first level supervisory position shall complete eight hours of proficiency training at a certified school every three years beginning with the date they receive certified status.~~
- ~~B. Curriculum. The following curriculum provisions are required for proficiency training provided by a certified school:~~
- ~~1. The course curriculum must be initially approved as to topic area and substance by the Board and approved thereafter every three years.~~
  - ~~2. The curriculum shall cover one or a combination of the following topic areas:~~
    - ~~a. Defensive tactics;~~
    - ~~b. Baton training;~~
    - ~~c. Tactical firearms (not firearms qualification);~~
    - ~~d. Defensive driving and pursuit operations;~~
    - ~~e. First aid and emergency care;~~
    - ~~f. Tactical operations;~~
    - ~~g. Skills areas unique to an agency.~~
  - ~~3. Limited correctional peace officers may satisfy the requirements of this rule with training:~~
    - ~~a. Approved in R13-4-206;~~
    - ~~b. Provided by an instructor certified under R13-4-205(C); and~~
    - ~~c. Addressing a topic area enumerated in subsection (B)(2), of this rule.~~
- A. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for peace officer certification:**
1. Administrative completeness review time-frame: 90 days.
  2. Substantive review time-frame: 180 days.
  3. Overall time-frame: 270 days.
- B. The administrative completeness review time-frame begins on the date the Board receives the document required by R13-4-108(A)(1).**
1. Within 90 days, the Board shall review the application file and issue to the appointing agency a statement of administrative completeness or a notice of administrative deficiencies that lists each item required by R13-4-105 that is missing.
  2. If the Board issues a notice of administrative deficiency, the agency shall submit the missing documents and information within 90 days of the notice. The administrative completeness review time-frame is suspended from the date of the deficiency notice until the date the Board receives the missing documents and information.
  3. If the agency fails to provide the missing documents and information within the 90 days provided, the Board shall close the applicant's file. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
  4. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the agency.
- C. The substantive review time-frame begins on the date the Board issues the notice of administrative completeness.**

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1. During the substantive review time-frame, the Board may make one comprehensive written request for additional information.
2. The agency shall submit to the Board the additional information identified in the request for additional information within 60 days. The time-frame for the Board to finish the substantive review of the application is suspended from the date of the request for additional information until the Board receives the additional information.
3. The Board shall close the file of an applicant if the additional information requested is not supplied within the 60 days provided. An applicant whose file is closed and who wants to be certified shall apply again under R13-4-103.
4. When the substantive review is complete, the Board shall grant or deny certification.

**R13-4-113. Firearm Qualification Requirements Repealed**

- A.** ~~Firearms qualification required. A peace officer authorized to carry a firearm shall qualify each calendar year beginning the year following the receipt of certified status, using a service handgun and service ammunition or equivalent, on a Board-approved firearms qualification course presented by a certified instructor.~~
- B.** ~~Approved firearms qualification course. An approved firearms qualification course is one that is authorized for presentation pursuant to R13-4-116, consisting of a timed accuracy component and a target identification and judgement component.~~
- C.** ~~Course approval. Academies and law enforcement agencies submitting a firearms qualification course to the Board for approval shall meet the requirements of R13-4-116(C)(3-4) and must also identify the type and style of target to be used as a part of the approved success criteria.~~

**R13-4-114. Certified Instructor Requirements Minimum Course Requirements**

- A.** ~~Certified instructor categories. Certified instructors shall be classified into the following categories:-~~
1. ~~General instructor. An instructor authorized to teach in certified schools in topics not requiring a specialty instructor.~~
  2. ~~Specialty instructor. An instructor authorized to teach in certified schools in topics listed in subsection (E).-~~
- B.** ~~Certified instructor requirements. A person must meet the following requirements to receive certified status as an instructor:-~~
1. ~~An applicant for instructor shall have:~~
    - a. ~~Two years experience as a certified peace officer; or~~
    - b. ~~One year experience and a degree from an accredited college or university; or~~
    - c. ~~A nomination by an agency head or school administrator as a specialist.~~
  2. ~~Instructional ability shall be demonstrated by:~~
    - a. ~~Successful completion of an instructor training course at a certified school; or~~
    - b. ~~If nominated as a specialist, documentation that clearly demonstrates his expertise and ability to enhance training in a special field; or~~
    - c. ~~Successful completion of an examination prescribed by the Board which measures instructor ability and knowledge of educational philosophy.~~
- C.** ~~Specialty instructor requirements. To apply for certified status as a specialty instructor for a topic area listed in subsection (E), a person must:-~~
1. ~~Be certified as a general instructor; and~~
  2. ~~Submit a completed application on a form prescribed by the Board; and~~
  3. ~~Submit documentation of advanced training and experience in the topic area.~~
- D.** ~~Limited waiver. The Board may waive the requirement to be a general instructor pursuant to subsection (C)(1), for a person teaching topics in subsection (E), if he instructed one of those topics prior to the adoption of this section and is otherwise qualified. The waiver shall apply only to instruction of the topic previously taught.~~
- E.** ~~Topics requiring specialty instructors. A certified school shall use a specialty instructor for classroom instruction, field training, practical exercises and evaluation of students for the following topic areas:-~~
1. ~~Firearms,-~~
  2. ~~Baton,-~~
  3. ~~First aid and emergency care,-~~
  4. ~~Defensive tactics,-~~
  5. ~~Physical conditioning,-~~
  6. ~~Defensive driving and pursuit operations.~~
- F.** ~~Lapse of certified status. Certified instructor status shall lapse five years from the date of certification.~~
- G.** ~~Renewal of certified status. The Board may renew the certified status of an instructor based upon a review of applicable inspection reports and any written endorsement of a school administrator or agency head which attests to the instructor's proficiency.~~
- H.** ~~Denial, suspension or revocation. The Board may deny, suspend or revoke the certified status of an instructor for failure to comply with the provisions of this section or demonstrate proficiency.~~

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- I.** Notice of denial, suspension or revocation. The Board shall immediately notify a certified instructor of a decision to deny, suspend or revoke by certified mail or personal service. The notice shall include the reason for the action and provisions for a hearing pursuant to Section R13-4-118.
- A.** Instructors. A Board prescribed course shall be facilitated by an instructor meeting the requirements of this Section.
1. Instructor classifications.
    - a. General instructor. An person qualified to teach topics not requiring a proficiency instructor.
    - b. Specialist instructor. A person, other than an Arizona peace officer, qualified to teach a topic in which the instructor has special expertise and who does not qualify for general instructor status.
    - c. Proficiency instructor. A person qualified to teach a topic area listed in R13-4-111(B)(3).
  2. Instructor qualification standards.
    - a. A general instructor shall meet the requirements of (i) and (v) of this subsection and either the requirements of (ii), (iii) or (iv):
      - i. Have two years experience as a certified peace officer;
      - ii. Successfully complete a Board sponsored instructor training course or an instructor training course that contains all of the performance objectives and demonstrations of the Board sponsored instructor course;
      - iii. Possess a community college or university teaching certificate;
      - iv. Maintain instructional competency.
    - b. A specialist instructor shall meet the requirements of (i) and (vii) of this subsection, either (ii) or (iii), and either (iv), (v) or (vi):
      - i. Have the nomination of an agency head or the administrator of an academy authorized to provide a basic peace officer course;
      - ii. Possess a professional license or certification other than that of a peace officer;
      - iii. Provide documentation that clearly demonstrates the expertise and ability to enhance peace officer training in a special field;
      - iv. Successfully complete a Board sponsored instructor training course or a training course that contains all of the performance objectives and demonstrations of the Board sponsored instructor course;
      - v. Possess a community college or university teaching certificate;
      - vi. Maintain instructional competency.
    - c. A proficiency instructor shall meet the requirements of (i) (iv) and (v) of this subsection and either (ii) or (iii):
      - i. Meet the requirements for general instructor; and
      - ii. Successfully complete a proficiency instructor course in a topic area listed in R13-4-111(2) that includes a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic course listed in R13-4-116 (E), or
      - iii. Complete a form prescribed by the Board, that documents advanced training and experience in the topic area including a competency assessment to instruct in that area within the 585-hour full-authority peace officer basic course as listed in R13-4-116(E);
      - iv. Maintain instructional competency.
      - v. A proficiency instructor shall meet the requirements of subsection (c) separately for each topical area listed in R13-4-111(2).
  3. Instructional competency. An academy administrator or an agency head shall notify the Board in writing of any instructor:
    - a. Who jeopardizes the safety of students or the public;
    - b. Whose instruction violates acceptable training standards;
    - c. Who is grossly deficient in performance as an instructor, or
    - d. Who is a proficiency instructor and is no longer able to satisfactorily complete the competency assessment to instruct in the instructor's topic area within the 585-hour full-authority peace officer basic course.
  4. Retention of instructor status. If the Board determines that an instructor has failed to comply with the provisions of this Section, has an instructional deficiency, or fails to maintain proficiency, any course facilitated by the instructor does not meet the requirements of this Section.
- B.** Curriculum Standards. Curriculum for Board prescribed courses shall meet the following standards.
1. Curriculum.
    - a. Curriculum development shall employ valid, job-based performance objectives and learning activities, and promote student, officer and public safety, as determined by a scientifically conducted validation study of the knowledge, skills, abilities, and aptitudes needed by the affected category of Arizona peace officer.
    - b. The Board shall maintain and provide upon request, a copy of curricula that meets the standards of this Section.
    - c. Curriculum for a Board prescribed course shall meet or exceed the requirements of subsection (B)(2), unless otherwise provided in this Section.
  2. Curriculum development and format standard. Curriculum used for a Board prescribed course shall consist of the following:

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- a. A general statement of instructional intent that summarizes a desired learning outcome. The statement is broad in scope, has a general statement of desired outcome, and includes long-term or far-reaching learning goals.
- b. Lesson plans containing:
  - i. Course title.
  - ii. Hours of instruction.
  - iii. Materials and aids to be used.
  - iv. Instructional strategy.
  - v. Topic areas in outline form.
  - vi. Performance objectives and learning activities.
  - vii. Success criteria, and
  - viii. Reference material.
- c. Performance objectives shall consist of at least the following components:
  - i. The learner, which is an individual or group that performs a behavior as the result of instruction;
  - ii. The behavior, which is an observable demonstration by the learner at the end of instruction that shows that the objective is achieved and allows evaluation of the learner's capabilities to perform the behavior.
  - iii. The conditions, which is a description of the important conditions of instruction or evaluation under which the learner performs the behavior. Unless specified otherwise within the lesson plan, instruction and evaluation will be in written or oral form.
- d. Learning activities. A student shall not be required to demonstrate learning of learning activities as a condition for successfully completing the training. Learning activities are subject areas for which performance objectives are not appropriate because either:
  - i. Reliable and meaningful assessment (testing) of mastery of the material would be extremely difficult or impossible, or
  - ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry-level peace officer job duties.
- e. A curriculum submission shall use the following decimal numbering system to provide a logical means of organization:
  - i. Functional areas (1.0, 2.0, 3.0, etc.)
  - ii. Blocks of instruction (1.1.0, 1.2.0, 1.3.0, etc.), and
  - iii. Performance objectives or Learning activities (1.1.1, 1.1.2, 1.1.3, etc.)

**R13-4-115. ~~Certified school requirements~~ Repealed**

- ~~A. Certified status required. Unless otherwise provided for in this Article, only a certified school may provide training required to receive or maintain certified status. The Board may grant certified status to a school in compliance with this Section.~~
- ~~B. Certified schools. Certified status is required for an academy which provides the basic peace officer course and a school which provides certified instructor training, continuing training or proficiency training required for certified status.~~
- ~~C. Required standards. A school must meet the following standards to receive and retain certified status:~~
  - 1. ~~Certified instructors shall be used to provide instruction required for certified status;~~
  - 2. ~~The facilities of a training school must be approved by the Board as being in compliance with subsection (D);~~
  - 3. ~~The school must be in compliance with the provisions of Sections R13-4-111, R13-4-112, and R13-4-116.~~
- ~~D. Facility requirements. To receive Board approval a school shall meet the following requirements applicable to the course of instruction provided:~~
  - 1. ~~A classroom with adequate heating, cooling, ventilation, lighting and space;~~
  - 2. ~~Chairs with tables or arms for writing;~~
  - 3. ~~Visual aid devices for classroom presentation;~~
  - 4. ~~Equipment in good condition for specialized instruction;~~
  - 5. ~~A safe driving range for conducting the defensive and pursuit driving course;~~
  - 6. ~~A firing range with adequate backstop to insure the safety of all persons on or near the range;~~
  - 7. ~~A safe location for practical exercises.~~
- ~~E. Required records and reports. For each session the school administrator shall:~~
  - 1. ~~Maintain a written synopsis of the session including persons enrolled, persons completing, agencies participating, highlights and any unusual events;~~
  - 2. ~~Maintain a final schedule of classes, reflecting any changes in dates, times, instructors or training location;~~
  - 3. ~~Submit a report for each session of all persons completing the session.~~
- ~~F. Lapse of certified status. When a certified school ceases to conduct approved training programs for 12 consecutive months, the certified status shall lapse. Otherwise, a school's certified status is valid until surrendered, suspended or revoked.~~

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- ~~G.~~ Denial, suspension or revocation. The Board may deny, suspend or revoke the certified status of a school for failure to comply with the provisions of this Section.
- ~~H.~~ Notice of denial, suspension or revocation. The Board shall, within five days of a decision to deny, suspend or revoke, notify the school administrator by certified mail or personal service of the action. The notice shall include the reason for the action and the provisions for a hearing pursuant to Section R13-4-118.

**R13-4-116. Academy Requirements**

- A.** Unless otherwise provided in this Article, only an academy that the Board determines meets the standards prescribed in this Section may provide the basic training required to receive certified peace officer status.
- B.** An academy shall have the following:
1. A classroom with adequate heating, cooling, ventilation, lighting, and space;
  2. Chairs with tables or arms for writing;
  3. Visual aid devices for classroom presentation;
  4. Equipment in good condition for specialized instruction;
  5. A safe driving range for conducting the defensive and pursuit driving course;
  6. A firing range with adequate backstop to ensure the safety of all persons on or near the range; and
  7. A safe location for practical exercises.
- ~~A.C.~~ Administrative requirements. An academy shall:
1. Establish and maintain written policies, procedures, and rules concerning the operation of the academy, entrance requirements, and student and instructor conduct;
  2. Admit only persons who meet the requirements of R13-4-105, as attested to by the appointing agency on a form prescribed by the Board; are appointed by an agency. A person appointed by an agency must submit an agency application as described in subsection (D) paragraph 4 prior to admission;
  3. ~~Administer a written examination measuring competency in reading and writing English prescribed by the Board to each student at the beginning of each academy session;~~ Administer to each student at the beginning of each academy session a written examination prescribed by the Board measuring competency in reading and writing English;
  4. Administer a standardized comprehensive examination prescribed by the Board to all students prior to graduation; and
  5. Ensure that all instructors are qualified under R13-4-114(A).
- ~~B.D.~~ Academic requirements. An academy shall ~~do the following:~~
1. Establish a curriculum with performance objectives and learning activities that meet the requirements of R13-4-114(B) and subsection (E) of this Section; provide course content and minimum number of hours for each functional area prescribed in subsection (C).
  2. Require instructors to use lesson plans that cover the course content and list the performance objectives ~~and learning activities to be achieved~~ and learning activities to be used;
  3. Administer written, oral, or practical demonstration examinations ~~which that~~ measure the attainment of performance objectives; prescribed for each block of instruction.
  4. Review examination results with each student. The student shall make and understand any necessary corrections and sign and date an acknowledgment that ~~he the student~~ participated in the review;
  5. ~~Require cadets a student to successfully complete examinations an examination in each block of instruction, prior to before graduating.~~
    - a. ~~Successful completion of a written or oral examination shall be is~~ a score of 70%-70 percent or greater.
    - b. ~~Scores For a student who scores of less than 70% 70 percent, the academy shall: require the cadet to:~~
      - i. ~~Receive Provide~~ Provide remedial training to the student; and
      - ii. ~~Be re-examined Re-examine the student in the area areas of deficiency.~~
    - c. ~~No The academy shall not allow a student to take more than one re-examination per block of instruction-shall be allowed.~~
  6. ~~Require cadets a student to qualify with firearms as set forth described in R13-4-110(C) R13-4-116(E);~~
  7. ~~Ensure that cadets a student also meet meets the Board-approved success criteria for the functional areas concerning police proficiency skills;~~
  8. ~~Provide remedial training for a student who misses a class prior to before allowing the student to graduate; and~~
  9. ~~Allow no Not allow a student to graduate who has been absent more than 32 hours from the full-authority basic peace officer basic course or 16 hours from the a specialty officer basic course or limited reserve limited-authority peace officer basic course. to graduate.~~
- ~~C.E.~~ Basic course specifications requirements. An academy shall ~~develop use~~ curricula that meets the requirements of R13-4-114 for the approved following basic courses of instruction, based on the following criteria.
1. Approved courses. The 585-hour full-authority basic peace officer course shall include all of the topics listed in each of the following functional areas:
    - a. ~~585-Hour Basic Peace Officer Course.~~

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- i. ~~Functional Area I—Introduction to Law Enforcement—To minimally include the topics of:~~
  - (1) ~~Criminal Justice Systems~~
  - (2) ~~History of Law Enforcement~~
  - (3) ~~Law Enforcement Services~~
  - (4) ~~Supervision and Management~~
  - (5) ~~Ethics and Professionalism~~
- ii. ~~Functional Area II—Law and Legal Matters—To minimally include the topics of:~~
  - (1) ~~Introduction to Criminal Law~~
  - (2) ~~Laws of Arrest~~
  - (3) ~~Search and Seizure~~
  - (4) ~~Rules of Evidence~~
  - (5) ~~Summonses, Subpoenas and Warrants~~
  - (6) ~~Civil Process~~
  - (7) ~~Administration of Criminal Justice~~
  - (8) ~~Juvenile Law and Procedures~~
  - (9) ~~Courtroom Demeanor~~
  - (10) ~~Constitutional Law~~
  - (11) ~~Substantive Criminal Law Titles 4, 13, and 36~~
  - (12) ~~Liability Issues~~
- iii. ~~Functional Area III—Patrol Procedures—To minimally include the topics of:~~
  - (1) ~~Patrol and Observation~~
  - (2) ~~High Risk Stops~~
  - (3) ~~Domestic Disputes and Crisis Intervention~~
  - (4) ~~Mental Illness~~
  - (5) ~~Crimes in Progress~~
  - (6) ~~Crowd and Riot Control~~
  - (7) ~~Bomb Threats and Disaster Training~~
  - (8) ~~Intoxication Cases~~
  - (9) ~~Communication Systems~~
  - (10) ~~Hazardous Materials~~
  - (11) ~~Bias Motivated Crimes~~
  - (12) ~~Fires~~
  - (13) ~~Civil Disputes~~
- iv. ~~Functional Areas IV—Traffic Control—to minimally include the topics of:~~
  - (1) ~~Impaired Driver Cases~~
  - (2) ~~Traffic Citations~~
  - (3) ~~Traffic Collision Investigation~~
  - (4) ~~Traffic Collision (Practical)~~
  - (5) ~~Traffic Direction~~
  - (6) ~~Substantive Traffic Law Title 28~~
- v. ~~Functional Area V—Crime Scene Management—To minimally include the topics of:~~
  - (1) ~~Preliminary Investigation and Crime Scene Management~~
  - (2) ~~Crime Scene Investigation (Practical)~~
  - (3) ~~Physical Evidence Procedures~~
  - (4) ~~Interviewing and Questioning~~
  - (5) ~~Fingerprinting~~
  - (6) ~~Sex Crimes Investigations~~
  - (7) ~~Death Investigations (which shall also incorporate training on Sudden Infant Death Syndrome)~~
  - (8) ~~Organized Crime Activity~~
  - (9) ~~Investigation of Specific Crimes~~
  - (10) ~~Narcotics and Dangerous Drugs~~
- vi. ~~Functional Area VI—Community and Police Relations—To minimally include the topics of:~~
  - (1) ~~Public and Police Interaction~~
  - (2) ~~Victimology~~
  - (3) ~~Human Communications~~
  - (4) ~~Crime Prevention~~
- vii. ~~Functional Area VII—Report Writing—To minimally include the topics of:~~
  - (1) ~~Report Writing~~
  - (2) ~~Note Taking~~

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- (3) Police Information Systems
- viii. Functional Area VIII – Police Proficiency Skills – To minimally include the topics of:
  - (1) First Aid/Care
  - (2) Firearms Training
  - (3) Physical Conditioning and Performance
  - (4) Stress Management
  - (5) Defensive Tactics
  - (6) Vehicle Operations
  - (7) Pursuit Operations
  - (8) Use of Force
  - (9) Baton
- ix. Functional Area IX – Orientation and Introduction – To minimally include the topics of:
  - (1) Examinations and Reviews
  - (2) Counseling
  - (3) Elective Time
- a. Functional Area I - Introduction to Law Enforcement
  - i. Criminal justice systems;
  - ii. History of law enforcement;
  - iii. Law enforcement services;
  - iv. Supervision and management;
  - v. Ethics and professionalism, and
  - vi. Stress management.
- b. Functional Area II - Law and Legal Matters
  - i. Introduction to criminal law;
  - ii. Laws of arrest;
  - iii. Search and seizure;
  - iv. Rules of evidence;
  - v. Summonses, subpoenas and warrants;
  - vi. Civil process;
  - vii. Administration of criminal justice;
  - viii. Juvenile law and procedures;
  - ix. Courtroom demeanor;
  - x. Constitutional law;
  - xi. Substantive criminal law, A.R.S. Titles 4, 13, and 36, and
  - xii. Liability issues.
- c. Functional Area III - Patrol Procedures
  - i. Patrol and observation (part 1);
  - ii. Patrol and observation (part 2);
  - iii. Domestic violence;
  - iv. Mental illness;
  - v. Crimes in progress;
  - vi. Crowd control formations and tactics;
  - vii. Bomb threats and disaster training;
  - viii. Intoxication cases;
  - ix. Communication and police information systems;
  - x. Hazardous materials;
  - xi. Bias motivated crimes;
  - xii. Fires; and
  - xiii. Civil Disputes.
- d. Functional Area IV - Traffic Control
  - i. Impaired driver cases;
  - ii. Traffic citations;
  - iii. Traffic collision investigation;
  - iv. Traffic collision (practical);
  - v. Traffic direction, and
  - vi. Substantive Traffic Law, A.R.S. Title 28.
- e. Functional Area V - Crime Scene Management
  - i. Preliminary investigation and crime scene management;
  - ii. Crime scene investigation (practical);

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- iii. Physical evidence procedures;
- iv. Interviewing and questioning;
- v. Fingerprinting;
- vi. Sex crimes investigations;
- vii. Death Investigations (including training certified by the Department of Health Services on sudden infant death syndrome);
- viii. Organized crime activity;
- ix. Investigation of specific crimes; and
- x. Narcotics and dangerous drugs.
- f. Functional Area VI - Community and Police Relations
  - i. Cultural awareness;
  - ii. Victimology;
  - iii. Interpersonal communications;
  - iv. Crime prevention; and
  - v. Police and the community.
- g. Functional Area VII - Records and Reports. Report writing.
- h. Functional Area VIII - Police Proficiency Skills
  - i. First aid;
  - ii. Firearms training (including firearms qualification);
  - iii. Physical conditioning;
  - iv. High risk stops;
  - v. Defensive tactics;
  - vi. Vehicle operations; and
  - vii. Pursuit operations.
- i. Functional Area IX - Orientation and Introduction
  - i. Examinations and reviews;
  - ii. Counseling; and
  - iii. Non-Board specified courses.
- b. ~~280-Hour Specialty Officer's Basic Course~~
  - i. ~~Functional Area I - Introduction to Law Enforcement - To minimally include the topics of:~~
    - (1) ~~Criminal Justice Systems~~
    - (2) ~~Law Enforcement Services~~
    - (3) ~~Supervision and Management~~
    - (4) ~~Ethics and Professionalism~~
  - ii. ~~Functional Area II - Law and Legal Matters - To minimally include the topics of:~~
    - (1) ~~Introduction to Criminal Law~~
    - (2) ~~Laws of Arrest~~
    - (3) ~~Search and Seizure~~
    - (4) ~~Rules of Evidence~~
    - (5) ~~Administration of Criminal Justice~~
    - (6) ~~Juvenile Law and Procedures~~
    - (7) ~~Courtroom Demeanor~~
    - (8) ~~Constitutional Law~~
    - (9) ~~Liability Issues~~
  - iii. ~~Functional Area III - Enforcement Procedures - To minimally include the topics of:~~
    - (1) ~~Enforcement Techniques and Tactics~~
    - (2) ~~Crimes in Progress~~
    - (3) ~~Communication Systems and Procedures~~
    - (4) ~~Hazardous Materials / First Responder~~
    - (5) ~~Bias Motivated Crimes~~
  - iv. ~~Functional Area IV - Criminal Investigation - To minimally include the topics of:~~
    - (1) ~~Preliminary Investigation and Crime Scene Management~~
    - (2) ~~Physical Evidence Procedures~~
    - (3) ~~Interviewing and Questioning~~
  - v. ~~Functional Area V - Community and Police Relations - To minimally include the topics of:~~
    - (1) ~~Public and Police Interaction~~
    - (2) ~~Victimology~~
    - (3) ~~Human Communications~~
  - vi. ~~Functional Area VI - Records and Reports - To minimally include the topics of:~~



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- (1) Report Writing
- (2) Note Taking
- (3) Police Information Systems
- vii. ~~Functional Area VII—Police Proficiency Skills—To minimally include the topics of:~~
  - (1) First Aid / Care
  - (2) Defensive Driving
- viii. ~~Functional Area VIII—Agency Specific Training—A minimum of 40 hours of training in this functional area is required. Specialty officers not completing Functional Area IX—Full Custody Arrest Skills, are required to complete a minimum of 80 hours of training in this functional area.~~
- ix. ~~Functional Area IX—Full Custody Arrest Skills—This functional area is only required for specialty officers who are authorized by their appointing agency to make full custody arrests and carry a firearm. Training to minimally include the topics of:~~
  - (1) High Risk Vehicle Stops
  - (2) Defensive Tactics
  - (3) Firearms Training
  - (4) Physical Conditioning and Performance
  - (5) Stress Management
  - (6) Pursuit Operations
  - (7) Use of Force
  - (8) Baton
- x. ~~Functional Area X—Administrative Time—To minimally include the topics of:~~
  - (1) Orientation and Introduction
  - (2) Examinations and Reviews
  - (3) Counseling
- e. ~~200-Hour Basic Limited Reserve Peace Officer Course~~
  - i. ~~Functional Area I—Introduction to Law Enforcement—To minimally include the topics of:~~
    - (1) Criminal Justice Systems
    - (2) History of Law Enforcement
    - (3) Ethics and Professionalism
  - ii. ~~Functional Area II—Law and Legal Matters—To minimally include the topics of:~~
    - (1) Introduction to Criminal Law
    - (2) Laws of Arrest
    - (3) Search and Seizure
    - (4) Rules of Evidence
    - (5) Courtroom Demeanor
    - (6) Constitutional Law
    - (7) Substantive Criminal Law Titles 4, 13, and 36
  - iii. ~~Functional Area III—Patrol Procedures—To minimally include the topics of:~~
    - (1) Patrol and Observation
    - (2) High Risk Vehicle Stops
    - (3) Domestic Disputes and Crisis Intervention
    - (4) Crimes in Progress
    - (5) Crowd and Riot Control
    - (6) Communication Systems and Procedures
    - (7) Bias Motivated Crimes
    - (8) Fires
    - (9) Civil Disputes
  - iv. ~~Functional Area IV—Traffic Enforcement and Investigation—To minimally include the topics of:~~
    - (1) Traffic Citations
    - (2) Traffic Direction
    - (3) Substantive Traffic Law Title 28
  - v. ~~Functional Area V—Crime Scene Management—To minimally include the topics of:~~
    - (1) Preliminary Investigation and Crime Scene Management
    - (2) Interviewing and Questioning
  - vi. ~~Functional Area VI—Community and Police Relations—To minimally include the topics of:~~
    - (1) Public and Police Interaction
    - (2) Victimology
    - (3) Human Communications
  - vii. ~~Functional Area VII—Report Writing—To minimally include the topics of:~~

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- (1) Report Writing
    - (2) Note Taking
    - (3) Police Information Systems
  - viii. ~~Functional Area VIII – Police Proficiency Skills – To minimally include the topics of:~~
    - (1) First Aid / Care
    - (2) Firearms Training
    - (3) Physical Conditioning and Performance
    - (4) Stress Management
    - (5) Defensive Tactics
    - (6) Vehicle Operations
    - (7) Use of Force
    - (8) Baton
  - ix. ~~Functional Area IX – Administrative Time – To minimally include the topics of:~~
    - (1) Orientation and Introduction
    - (2) Examinations and Reviews
    - (3) Counseling
- 2. The specialty peace officer basic course shall include all of the topics necessary from the 585-hour full authority basic peace officer course for the curriculum to meet the requirements of R13-4-114(B).
- 3. The limited-authority peace officer basic course shall include all of the topics from the 585-hour full authority basic peace officer course required by the Board.
  - d. ~~48-Hour Limited Correctional Peace Officer Supplement~~
    - i. ~~Functional Area I – Introduction to Law Enforcement – To minimally include the topic of Management and Supervision.~~
    - ii. ~~Functional Area II – Law and Legal Matters – To minimally include the topics of:~~
      - (1) Laws of Arrest
      - (2) Search and Seizure
    - iii. ~~Functional Area III – Patrol Procedures – To minimally include the topics of:~~
      - (1) Patrol and Observation
      - (2) Bias Motivated Crimes
    - iv. ~~Functional Area IV – Crime Scene Management – To minimally include the topic of Preliminary Investigation, and Crime Scene Management.~~
    - v. ~~Functional Area V – Proficiency Skills – To minimally include the topics of:~~
      - (1) First Aid
      - (2) Firearms Training
- 2. ~~Administrative functions shall be exempt shall be exempt from the requirement of subsection (C)(4)(a) through (d). These functions may include, but are not limited to:~~
  - a. ~~Orientation~~
  - b. ~~Introductions~~
  - c. ~~Examinations and reviews~~
  - d. ~~Counseling~~
- 4. The 48-hour limited correctional peace officer supplement course shall include all of the topics listed in the following functional areas:
  - a. Functional Area I - Introduction to Law Enforcement: Management and Supervision.
  - b. Functional Area II - Law and Legal Matters
    - i. Laws of arrest, and
    - ii. Search and seizure.
  - c. Functional Area III - Patrol Procedures
    - i. Patrol and observation, and
    - ii. Bias motivated crimes.
  - d. Functional Area IV - Crime Scene Management
    - i. Preliminary investigation, and
    - ii. Crime scene management.
  - e. Functional Area V - Proficiency Skills
    - i. First aid, and
    - ii. Firearms training.
  - f. Administrative functions such as orientation, introductions, examinations and reviews, and counseling are exempt from the requirements of R13-4-114(B).
- 3. ~~Curriculum approval. Curricula submitted to the Board for approval shall meet or exceed the requirements of subsection (C)(4)(E)(4), unless otherwise stated in this rule. Academies and law enforcement agencies must also submit for~~

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approval, any substantive changes in performance objectives. Curricula submitted for approval shall be received by the Board staff no later than 30 days prior to the next regularly scheduled Board meeting. The Board shall approve curricula that employ valid, job-based performance objectives and learning activities, and promote cadet, officer, and public safety, as determined by a scientifically conducted validation study.

4. Curriculum development. Curricula submitted to the Board for approval must incorporate each block of instruction and contain lesson plans with performance objectives and applicable learning activities:
  - a. A block of instruction is a general statement of instructional intent that summarizes a desired learning outcome. The statement should be broad in scope, have general statement of ends and be long term or far reaching.
  - b. Lesson plans submitted to the Board for approval shall contain:
    - i. Course title
    - ii. Hours of instruction
    - iii. Materials and aids to be used
    - iv. Instructional strategy
    - v. Topic areas in outline form
    - vi. Success criteria
    - vii. Performance objectives and learning activities to be achieved.
  - c. Performance objectives shall follow a format approved by the Board and minimally consist of three components:
    - i. The learner—An individual or group that performs a behavior as the result of instruction.
    - ii. The behavior—A demonstration by the student at the end of instruction which is evidence that the objective has been achieved. What is described shall be an observable activity to be performed by the student. This allows evaluation of the student's capabilities relative to the stated behavior. Performance objectives for each block of instruction shall describe the expected behavior in action terms which are readily observable, measurable, and easily evaluated; i.e., "the student will identify, demonstrate or perform."
    - iii. The conditions—A description of the important conditions of instruction or evaluation under which the student will perform the stated behavior. If not specifically stated it will be implied that instruction and evaluation will be in written or oral form.
  - d. Valid learning activities shall be included in curricula submitted to the Board for approval. Peace officers shall not be required to demonstrate the learning of these activities as a condition for successfully completing the training. Learning activities shall be comprised of subject areas identified for which performance objectives are not considered appropriate out of recognition that either:
    - i. Reliable and meaningful assessment (i.e., testing) to evaluate mastery of the material would be extremely difficult if not infeasible, or
    - ii. Mastery of the material is not likely to bear a direct relationship to the ability to perform entry level patrol officer job duties.
  - e. Functional areas, blocks of instruction, performance objectives, and learning activities shall use the following decimal numbering system to provide a logical means of organization and reference:
    - i. Functional Areas (1.0, 2.0, 3.0, etc.)
    - ii. Blocks of Instruction (1.1.0, 1.2.0, 1.3.0, etc.)
    - iii. Performance Objectives / Learning Activities (1.1.1, 1.1.2, 1.1.3, etc.)
  - f. The school administrator shall, initially and each calendar year thereafter, review and approve each lesson plan used in the academy. The school administrator shall also sign and date an acknowledgment of approval for each lesson plan.

**D.F.** Records required. An academy administrator shall ~~maintain~~ ensure that the following records are maintained and make them available for inspection by the Board or staff. An academy shall provide to the Board Copies copies of records shall be provided upon request.

1. A record of all persons attending the academy;
2. A manual containing the policies, procedures, and rules of the academy;
3. A document signed by each person attending the academy indicating ~~they have~~ the person has received and read a copy of the academy policies, procedures and rules;
4. An application from the appointing agency for each person in attendance attesting that the requirements of Section R13-4-105 ~~have been~~ are met. Application shall be made on a form prescribed by the Board;
5. A copy of all lesson plans used by instructors and ~~the school administrator's acknowledgments of approval after the initial inspection under sub-section (H), the academy administrator shall annually review and approve each lesson plan used in the academy, and shall sign and date an acknowledgment of approval for each lesson plan.~~
6. A copy of all examinations, answer sheets or records of performance, and examination review acknowledgments;
7. An attendance roster for all classes or other record ~~which~~ that identifies absent persons;
8. A record of classes missed by ~~students~~ persons attending the academy and the remedial training they received;
9. A record of disciplinary actions for all persons attending the academy; and
10. A file for each person attending the academy containing ~~his~~ that person's performance history.

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**E.G.** Reports required. The ~~school~~ academy administrator for the academy shall submit to the Board:

1. ~~Within~~ At least ten working days prior to before the start of each academy session, a complete schedule of classes containing the name of the instructor for each class and the ~~actual~~ training location;
2. ~~Within~~ No more than five working days after the start of each academy session, a roster containing the appointing agency, full name and social security number of each person in attendance;
3. ~~Within~~ No more than five working days of a termination after the dismissal of a person attending an academy from the academy, notification of the ~~termination~~ dismissal and the reason;
4. On the tenth day of each month a report containing:
  - a. A summary of training activities and ~~academy~~ progress of the academy class to date;
  - b. Unusual occurrences, accidents, or liability issues;
  - c. ~~Problems~~ Other problems or matters of interest noted in the course of the academy, if not included under subsection (H)(4)(b);
  - d. ~~Changes to academy staff or instructors;~~
  - e. ~~Changes or additions to programs.~~
5. No more than ten working days after the end of each academy session, a complete schedule of classes containing the name of the instructor for each class and the training location;
6. No more than ten working days after the end of each academy session, a roster containing the appointing agency, full name and social security number of each person successfully completing the training, on a form prescribed by the Board.

**F.H.** Required inspections. ~~Prior to granting an academy certified status~~ Before an academy may provide training to persons seeking certification for any category of peace officer, the Board staff shall conduct an onsite inspection of the academy; ~~shall be conducted by the Board staff. Additional Board staff shall conduct additional inspections shall be conducted~~ as often as the Board deems necessary. Following an inspection:

1. ~~Staff shall present an inspection report to the Board describing academy compliance in meeting standards; Within 30 days of the inspection, the Board staff shall provide to the academy administrator an inspection report including any remedial action the academy is required to take to comply with the standards of this Section and R13-4-114;~~
2. ~~The school administrator shall, within 60 days of his receipt of the inspection report, submit a response which identifies the remedial action to be taken in correcting any deficiencies described in the report. Within 30 days of receipt of the inspection report, the academy administrator shall submit a response that identifies the remedial action taken or to be taken to correct any deficiencies described in the report.~~
3. Within 30 days of receipt of notice that all remedial action has been completed, Board staff shall conduct another inspection.
4. Following each inspection, Board staff shall present an inspection report to the Board describing the academy's compliance in meeting the standards of this Section and R13-4-114.

**I.** When an academy ceases to conduct a basic peace officer course for 12 consecutive months, the academy shall not provide training until Board shall conduct another inspection as required by subsection (H). Otherwise, an academy may continue to provide training unless the Board determines that the academy is not in compliance with the standards of this Section and R13-4-114.

**J.** If the Board finds that an academy fails to comply with the provisions of this Section or R13-4-114, that academy may not provide training to persons seeking to be certified as peace officers.

**R13-4-117. Grant Applications and Reimbursements**

- A. Approval of training ~~programs~~ courses. The Board may approve or deny training ~~programs~~ courses for reimbursement. Approval may be given regardless of the certified status of the school or instructor providing the training. ~~The Board may withdraw approval for reimbursement at any time.~~
- B. Application for reimbursement. ~~Prior to~~ Before the beginning of any ~~approved~~ a training program described in R13-4-111, each ~~an~~ agency planning to participate in the ~~school~~ training and apply for reimbursement, shall notify the Board on prescribed forms.
- C. Claim for reimbursement. When ~~a person completes a~~ an ~~approved~~ training ~~programs~~ course ~~has been completed, the~~ appointing ~~qualified agencies participating~~ agency may submit a claim for reimbursement on a form prescribed by the Board. The claim ~~must~~ shall be submitted within 60 days after completion of training.
- D. Allowable reimbursements. ~~The Board shall allow the following reimbursements shall be allowed up to the limit approved subject to the limits on the amount of reimbursement as determined by the Board under subsection (E):~~
  1. ~~The actual cost of lodging and meals while a peace officer is in attendance at an approved school attends a training course,~~
  2. ~~The salary at the actual rate of pay a peace officer received while attending an approved a training program course,~~
  3. ~~Tuition for an approved a training program course~~ on a pro rata basis for the actual hours of training attended, ~~and~~
  4. Other expenses incurred by a peace officer.

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- E. Limitations on reimbursements. The following limitations ~~shall~~ apply to applications for reimbursement involving training courses.
1. ~~The Board shall not reimburse~~ Reimbursement shall not be paid to an agency when the peace officer has previously completed the same training ~~program course~~ within three years.
  2. ~~The Board shall not reimburse an agency~~ Reimbursement for a peace officer who fails failing to complete an approved training ~~program course shall not be paid~~ except upon request of the appointing agency. The agency ~~must~~ shall present the reasons for the non-completion to the Board with the request for reimbursement.
  3. ~~The Board may pay salary~~ Salary reimbursement for an approved training ~~program course~~ is payable only for the actual hours of training attended at the percentage rate established by the Board.
  4. ~~The Board shall not reimburse an agency for~~ Agency payment of insurance, medical, pension, uniform, clothing, equipment or other benefits or expenses of a peace officer while attending ~~an approved a training program course~~. shall not be reimbursed.
- F. Academy reimbursement. The Board may reimburse an academy for the actual costs of materials, books, ammunition, registration fees and tuition, necessary for completion of a basic course ~~may be paid to an academy~~ up to the limits set by the Board. To receive reimbursement an academy shall furnish paid ~~Paid~~ receipts; or invoices; ~~and or~~ other information as required by the Board; ~~shall be furnished in order to verify costs incurred. Any amount not actually expended shall be returned to the Board. The Board shall not reimburse an academy. No reimbursement shall be paid to an academy~~ for costs incurred for registration fees, tuition, books, materials, or ammunition for a peace officer, when the Board has made such reimbursements ~~have been made for the peace officer's~~ a previous attendance at an academy.

**R13-4-118. Hearings, Rehearings**

- A.** Request for hearing. The Board shall grant a hearing to any peace officer, agency, certified school or instructor aggrieved by a decision of the Board in reference to any of the following:
1. Establishment or enforcement of qualifications, standards or training requirements. The Board may waive in whole or in part any provisions of this Article, except for medical requirements pursuant to Section R13-4-107, upon a finding that the best interests of the law enforcement profession are served and the public welfare and safety is not jeopardized. The Board may place restrictions or requirements on a peace officer, instructor or school as a condition of certified status.
  2. Refusal of a reimbursement claim, submitted by an agency to the Board.
  3. Denial, suspension or revocation, except mandatory revocation pursuant to Section R13-4-109(D).
- B.** Selection of hearing officer. The Board may select an independent hearing officer to preside in any hearing granted under this rule.
- C.** Right to counsel. Before a hearing each party shall announce the presence of legal counsel for the record. The presiding hearing officer shall advise each party without legal counsel that the party is entitled to counsel at his own expense.
- D.** Oaths or affirmations. All testimony received at a hearing shall be under oath or affirmation.
- E.** Witness fees. If the Board issues a subpoena upon request by the appealing party, fees and mileage shall be paid by the appealing party and not paid from the Peace Officers' Training Fund.
- F.** Failure of affected party to appear at hearing. If after proper notification, the party requesting the hearing fails to appear before the Board or its hearing officer at the time and place designated for the hearing, the Board may consider the case based on the information available.
- G.** Decision by the Board. The decision of the Board shall be rendered within 60 days after conclusion of a hearing. Such decision shall be in writing and may contain findings of fact. Notice of the decision shall be served upon the party by either personal delivery or certified mail addressed to the party's last known residence or place of business.
- H.** Motion for rehearing. Rehearing may be granted on motion of a party or on the Board's initiative. Any party aggrieved by a decision in a contested case before the Board may file with the Board, not later than ten days after service of the decision, a written motion for rehearing or review of the decision specifying the particular grounds therefor.
- I.** Response. A response may be filed within ten days after service of such motion by any other party. The Board may require the filing of written briefs upon the issues raised in the motion and may provide or oral argument.
- J.** Grounds for rehearing. A rehearing or review of a decision by the Board may be granted for any of the following causes materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings of the agency, the Board or its designated representative, the prevailing party, or any abuse of discretion where the moving party was deprived of a fair hearing;
  2. Misconduct of the Board, its hearing officer, or the prevailing party;
  3. Accident or surprise which could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the hearing;
  5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing;
  6. The decision was not justified by the evidence or the decision was contrary to law.

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- ~~K.~~ Action by the Board. The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on all or part of the issues, for any of the reasons set forth in this Section. An order granting a rehearing shall specify the particular grounds granting the rehearing and the rehearing shall concern only those matters so specified.
- A. If a respondent makes a proper request for hearing under R13-4-109(E), the hearing shall be held in accordance with A.R.S. Title 41, Chapter 6, Article 10.
- B. If a respondent fails to answer in writing within 30 days the notice of action sent under R13-4-109(E), the Board may consider the case based on the information available.
- C. If a respondent requests a hearing, but fails to appear at the hearing, the Board or administrative law judge may vacate the hearing. If a hearing is vacated, the Board may deem the acts and violations charged in the complaint admitted, and impose any of the sanctions provided by A.R.S. § 41-1822(C)(1).
- D. The Board shall render a decision in writing. The Board shall serve notice of the decision upon each party as required by A.R.S. § 41-1092.04.
- E. A party may file a motion for rehearing or reconsideration of the decision with the Board not later than 30 days after service of the Board's decision, specifying the particular grounds for the motion.
- F. The Board may grant a rehearing or reconsideration of a decision for any of the following reasons materially affecting the moving party's rights:
1. Irregularity in the administrative proceedings, or any abuse of discretion where the moving party was deprived of a fair hearing;
  2. Misconduct of the Board, the administrative law judge or the prevailing party;
  3. Mistake or surprise that could not have been prevented by ordinary prudence;
  4. Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the hearing;
  5. Error in the admission or rejection of evidence or other errors of law occurring at the hearing; or
  6. The decision was not justified by the evidence or the decision was contrary to law.
- ~~G.~~ The Board may affirm or modify the decision or grant a rehearing to any or all of the parties, on part or all of the issues, for any of the reasons in subsection F. An order granting a rehearing shall specify the particular issues in the rehearing and the rehearing shall concern only the matters specified.

**ARTICLE 2. CORRECTIONAL OFFICERS**

**R13-4-201. Definitions**

In this Article, unless the context otherwise requires:

- ~~1. "Academy" means the Arizona Department of Corrections.~~ 1. "Academy" means the Arizona Department of Corrections' Correctional Officer Training Academy (COTA) of the Arizona Department of Corrections in Tucson, Arizona, or a satellite location authorized by the Director.
- ~~2. "Appointment" means the selection of a person as a correctional officer.~~
- ~~3. "Applicant" means an person who applies to be a correctional officer.~~
- ~~4. "A.R.S." means Arizona Revised Statutes.~~
- ~~5. "Board" is defined in A.R.S. § 41-1661(3).~~ 5. "Board" is defined in A.R.S. § 41-1661(2).
- ~~6. "Cadet" means an applicant who meets the requirements for appointment as a Correctional Officer.~~ 6. "Cadet" means an applicant who meets the requirements for appointment as a correctional officer and has subsequently been selected to attend the academy.
- ~~7. "Correctional Officer" is defined in A.R.S. § 41-1661(2).~~ 7. "Correctional Officer" is defined in A.R.S. § 41-1661(3).
- ~~8. "Department" means the Arizona Department of Corrections.~~
- ~~9. "Director" is defined in A.R.S. § 41-1661(4).~~
- ~~10. "Employing agency" is defined in A.R.S. § 41-1661(5).~~
- ~~11. "Experimentation" means the limited use of illegal drugs which does not demonstrate a pattern of abuse.~~ 11. "Experimentation" means the illegal use of marijuana, a dangerous drug, or narcotic, as described in R13-4-105(B) and (C).
- ~~12. "State Correctional Officer" means a person employed by the Department in the correctional service officer and correctional program officer series.~~

**R13-4-202. Uniform Minimum Standards for Appointment**

- ~~A. Prior to admission to the academy for training as a state correctional officer, a person shall meet the following minimum qualifications:~~
- ~~1. Be a citizen of the United States or be eligible to work in the United States;~~
  - ~~2. Be at least 21 years of age;~~
  - ~~3. Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination or equivalent as specified in R13-4-203(C)(3);~~
  - ~~4. Have a valid Arizona driver's license (Class 2 or higher);~~
  - ~~5. Have undergone a complete background investigation which meets the standards of Section R13-4-203;~~

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6. ~~Have undergone~~ Undergo a physical examination (within 12 months ~~prior to before~~ before appointment) ~~as prescribed by the Director by a licensed physician designated by the Director, which meets the requirements of A.A.C. Title 5, Chapter 1, Article 5, Medical and Physical Requirements for Appointment as a Correctional Service Officer.~~
  7. Not have been dishonorably discharged from the United States Armed Forces;.
  8. Not have experimented with marijuana within the past 12 months;.
  9. Not have experimented with a dangerous drug ~~a dangerous drugs drug or narcotics narcotic~~ within the past five years;.
  10. ~~Never have~~ Not have ever illegally used marijuana, ~~narcotics, or dangerous drugs a dangerous drug, or narcotic~~ other than for experimentation;.
  11. Not have a pattern of abuse of prescription medication;.
  12. Not have committed a felony or a misdemeanor, ~~if of a nature that the Board determines that the nature of the offense is judged by the Board to have~~ has a reasonable relationship to the functions of the position, in accordance with A.R.S. § 13-904(E).
- B.** Code of Ethics. To enhance the quality of performance; and the conduct and the behavior of correctional officers, ~~all persons a person~~ appointed to such classifications be a correctional officer shall commit to the following Code of Ethics and shall affirm the commitment by signing the code, on a form designated by the Board: ~~make the following commitment:~~ "I shall maintain high standards of honesty, integrity, and impartiality, free from any personal considerations, favoritism, or partisan demands. I shall be courteous, considerate, and prompt when dealing with the public, realizing that ~~we~~ I serve the public. I shall maintain mutual respect and professional cooperation in my relationships with other staff members. I shall be firm, fair, and consistent in the performance of my duties. I shall treat others with dignity, respect, and compassion, and provide humane custody and care, void of all retribution, harassment, or abuse. I shall uphold the ~~Constitution~~ Constitutions of the United States and the state of Arizona, ~~and all along with~~ and all federal and state laws. Whether on or off duty, in uniform or not, I shall conduct myself in a manner that will not bring discredit or embarrassment to my agency or the state of Arizona.
- I shall report without reservation any corrupt or unethical behavior ~~which that~~ that could affect either inmates, employees, or the integrity of my agency. I shall not use my official position for personal gain. I shall maintain confidentiality of information that has been entrusted to me and designated as such.
- I shall not permit myself to be placed under any kind of personal obligation ~~which that~~ that could lead any person to expect official favors. I shall not accept or solicit from anyone, either directly or indirectly, any thing of economic value such as a gift, gratuity, favor, entertainment, or loan, ~~which that~~ is or may appear to be, designed to influence my official conduct. I will not discriminate against any inmate, employee, or any member of the public on the basis of race, gender, creed, or national origin. I will not sexually harass or condone sexual harassment ~~with or against~~ of any person. I shall maintain the highest standards of personal hygiene, grooming, and neatness while on duty or otherwise representing the state of Arizona."

**R13-4-203. Background Investigation**

- A.** The Department shall ~~be responsible for conducting~~ conduct a background investigation before an applicant is admitted to the academy. The Department shall review the personal history statement submitted ~~pursuant to R13-4-203(B) under subsection (B)~~ and the results of the background investigation required in R13-4-203(C) subsection (C) to determine that the person meets the requirements of R13-4-202, and that the person's personal history statement is accurate and truthful.
- B.** Personal history. ~~Each~~ An applicant shall complete and submit to the employing agency a personal history statement on a form prescribed by the Board. The history statement shall be completed ~~prior to before~~ before the start of the background investigation. It shall contain answers to ~~questions consistent with the information sought in the background investigation required in R13-4-203 subsection (C).~~
- C.** Investigative requirements. Before admitting an applicant to the academy, the Department shall collect, verify, and ~~have on record~~ retain documents ~~which establish~~ establishing that an applicant meets the standards ~~for appointment~~ specified in this Article. At a minimum, this documentation shall include:
1. ~~Proof of the applicant's age and United States citizenship or eligibility to work in the United States. A copy of either the applicant's birth certificate, United States passport, Certification of United States Naturalization, Certificate of Nationality, Immigration Form I-151 or I-1551 Work Permit shall be acceptable proof.~~
  1. Proof of the applicant's age and United States citizenship or eligibility to work in the United States. A copy of any of the following is acceptable proof:
    - a. The applicant's birth certificate.
    - b. United States passport.
    - c. Certification of United States Naturalization.
    - d. Certificate of Nationality, or
    - e. Immigration Form I-151 or I-1551.
  2. Proof of the applicant's valid Arizona driver's license. A copy of the applicant's Arizona driver's license, along with written verification of the driving record from the Arizona Department of Transportation, Motor Vehicle Division, ~~shall be is~~ acceptable required proof.

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3. Proof that the applicant is a high school graduate or its equivalent. The following are acceptable proof:
  - a. ~~The successful~~ Successful completion of the Arizona General Education Development (G.E.D.) ~~Tests tests or successful completion of an~~ equivalent test from another state, ~~which that~~ meets or exceeds the Arizona Department of Education's requirement for ~~such G.E.D. testing;~~ shall be considered the equivalent of high school graduation.
  - b. In the absence of proof of ~~successful~~ high school graduation or successful completion of General Education Development Tests G.E.D. tests, ~~the following shall be considered acceptable:~~
    - i. A copy of an Associate's Degree or transcript showing successful completion of high school equivalency;
    - ii. A certificate issued by the United States Armed Forces Institute (U.S.A.F.I.) ~~prior to before~~ December 31, 1974, showing successful completion of high school equivalency; ~~or;~~
    - iii. A United States Military Service Record DD Form 214-#4 with the Education block indicating high school completion, or
  - c. ~~iv.~~ An ~~The~~ applicant may submit other evidence of high school education equivalency for consideration by the Board.
4. Record of any military discharge. A copy of the Military Service Record ~~Form~~ (DD Form 214-#4) ~~shall be~~ is acceptable proof.
5. Results of a psychological fitness assessment; approved by the Director and conducted by a psychologist or psychiatrist designated by the Department.
6. Personal reference and previous employer inquiries. Information provided by at least three personal references and all previous employers of the applicant for the past five years shall be ~~retained~~ documented by the Department.
7. Law enforcement agency records. The Department shall request and review law ~~Law~~ enforcement agency records in jurisdictions where the applicant has lived, ~~or worked, or attended school~~ in the past five years ~~shall be requested and reviewed.~~ Information obtained shall be ~~recorded and retained~~ documented by the Department.
8. ~~National and Arizona Criminal Information Center ("NCIC"/ "ACIC") checks.~~ The Department shall query the National Crime Information Center/Interstate Identification Index (NCIC/III), and the Arizona Criminal Information Center/Arizona Computerized Criminal History (ACIC/ACCH), or the equivalent for each state where the applicant has lived, worked, or attended school in the past five years and review the criminal history record for any arrest or conviction. A copy of the NCIC/ACIC response shall be retained by the Department.
9. An applicant fingerprint card ~~which has been~~ processed by the Arizona Department of Public Safety and the Federal Bureau of Investigation.
  - a. The Department shall process an ~~An~~ applicant fingerprint card ~~shall have been processed~~ for all cadets entering the academy ~~and retained by the Department,~~ except as otherwise provided in ~~R13-4-203 subsections (C)(9)(b) and (c).~~ Fingerprint cards shall be processed by the Department, ~~regardless of the existence of~~ even if the applicant has a processed applicant fingerprint card from a previous employer.
  - b. ~~In the event that~~ If an applicant fingerprint card ~~has not been~~ is not fully processed ~~by the time when~~ the applicant is ready to enter the academy, the Department may allow the applicant to attend the academy ~~if provided that:~~
    - i. A computerized criminal history check has been made and the results are on file with the Department; and
    - ii. The applicant meets all other ~~specifications of this rule and the requirements of~~ requirements of this Section and of R13-4-202.
  - c. ~~No cadet graduating from the academy shall continue in employment as a state correctional officer without a fully processed fingerprint card being received by the Department within 15 weeks from the date of admission to the academy. If the Department has not received a fully processed fingerprint card within 15 weeks of the date of admission to the academy, the person does not meet the requirements of this Section. Upon receipt of a fully processed card, the person may be re-employed under R13-4-208.~~

**R13-4-204. Records and Reports**

- A. Reports. The Department shall submit to the Board: a report by the Director attesting that each person completing the academy meets the requirements of R13-4-202.
  1. ~~A report by the Director attesting that each person completing the academy meets the requirements of R13-4-202.~~
  2. ~~A quarterly report of all state correctional officers terminated during the 90 days preceding the date of the report and showing the effective dates for each termination.~~
- B. Records. The Department shall make Department records ~~shall be made~~ available to the Board upon the request of the Board or its staff, ~~and~~ The Department shall ~~be kept~~ keep the records in a central location. The ~~agency~~ Department shall maintain:
  1. A copy of reports submitted ~~pursuant to~~ under subsection ~~R13-4-204(A).~~
  2. All written documentation obtained or recorded ~~pursuant to~~ under R13-4-202 and R13-4-203.
  3. A record of all advanced training, specialized training, continuing education, and firearms qualifications conducted ~~pursuant to~~ under R13-4-206 and R13-4-207.



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- C. Record retention. The Department shall maintain the records required by this Section as follows:
1. For applicants investigated ~~pursuant to~~ under R13-4-203 who are not appointed, ~~records shall be retained for~~ two years.
  2. For applicants who are appointed, ~~records shall be retained for~~ five years from the date of appointment, except records retained ~~pursuant to~~ under subsection R13-4-204(B)(3), ~~which~~ shall be retained for three years.

**R13-4-205. Basic Training Requirements**

- A. Required training for state correctional officers. ~~Prior to~~ Before appointment as a state correctional officer, a person shall ~~have successfully completed~~ complete a Board-approved, ~~288 hour~~, basic correctional officer training program. ~~Such~~ This program shall ~~minimally~~ meet or exceed the requirements of this Section.
- ~~B. Board approval. The Department shall secure initial Board approval for a 288-hour, basic correctional officer training program, as specified in R13-4-205 through R13-4-207, shall be received by staff no later than 30 days prior to before the next regularly scheduled Board meeting, to ensure adequate time for review. The Department shall be responsible for regular curriculum review, as specified in R13-4-205 and must submit for approval any substantive changes in course topics, performance objectives, success criteria or hours of instruction.~~
- B. Curricula or training material approval time-frames.
1. For the purposes of A.R.S. § 41-1073, the Board establishes the following time-frames for curricula or training material that require Board approval under this Section and R13-4-206.
    - a. Administrative completeness time-frame: 60 days.
    - b. Substantive review time-frame: 60 days.
    - c. Overall time-frame: 120 days.
  2. The administrative completeness time-frame begins on the date the Board receives the documents required by this Section or R13-4-106.
    - a. Within 90 days, the Board shall review the documents and issue to the department a statement of administrative completeness or a notice of administrative deficiencies that lists each item required by this Section before the application is administratively complete.
    - b. If the Board issues a notice of administrative deficiency, the department shall submit the missing documents and information within 90 days of the notice. The administrative completeness time-frame is suspended from the date of the deficiency notice until the date the Board receives the missing documents and information.
    - c. If the department fails to provide the missing documents within the 90 days provided, the Board shall close the approval process.
    - d. When the file is administratively complete, the Board shall provide written notice of administrative completeness to the department.
  3. The substantive review time-frame begins on the date the Board issues the notice of administrative completeness.
    - a. During the substantive review time-frame, the Board may make one comprehensive written request for additional information.
    - b. The department shall submit to the Board the additional information identified in the request for additional information within 60 days. The time-frame for the Board to finish the substantive review of the application is suspended from the date of the request for additional information until the Board receives the additional information.
    - c. The Board shall close the approval process if the additional information is not supplied within the 60 days provided.
    - d. When the substantive review is complete, the Board shall grant or deny approval.
- C. Basic course specifications.
1. The Department shall develop the curricula for the basic correctional officer training program.
    - a. The curricula shall include courses in the following functional areas:
      - i. Functional Area I - Ethics and Professionalism;
      - ii. Functional Area II - Inmate Management;
      - iii. Functional Area III - Legal Issues;
      - iv. Functional Area IV - Communication Skills;
      - v. Functional Area V - Officer Safety;
      - vi. Functional Area VI - Applied Skills;
      - vii. Functional Area VII - Security, Custody and Control;
      - viii. Functional Area VIII - Conflict and Crisis Management; and
      - ix. Functional Area IX - Medical Emergencies, Physical, and Mental Health.
    - b. The curricula shall also contain ~~relevant~~ administrative time for orientation, counseling, testing, and remedial training. ~~The amount of time allotted shall be suggested by the Department and approved by the Board. Approved administrative time may be used to satisfy R13-4-205(A) but shall be excluded from all other requirements of this rule.~~

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2. ~~Curricula submitted to the Board for approval shall contain lesson outlines which include: course title, hours of instruction, materials and aids to be used, instructional strategy, topic areas in outline form, success criteria and the performance objectives to be achieved. The Director or his designee shall initially and each calendar year thereafter review and approve each lesson plan used in the academy. The Director or his designee shall also sign and date an acknowledgment of approval for each lesson plan.~~
  2. Curricula submitted to the Board for approval shall contain lesson plans that include:
    - a. Course title.
    - b. Hours of instruction.
    - c. Materials and aids to be used.
    - d. Instructional strategy.
    - e. Topic areas in outline form.
    - f. Success criteria, and
    - g. The performance objectives to be achieved.
  3. After initial approval, the Director or the Director's designee shall annually review and approve each lesson plan used in the academy. The Director or the Director's designee shall sign and date an acknowledgment of approval for each lesson plan.
  - 3.4. A performance objective shall consist of three components:
    - a. The learner - An individual or group that performs a behavior as the result of instruction;
    - b. The behavior - An observable demonstration by the student learner at the end of instruction ~~which is evidence that shows that the objective has been is achieved and allows evaluation of the learner's capabilities relative to the behavior. What is described shall be an observable activity to be performed by the student. This allows evaluation of the student's capabilities relative to the stated behavior. Performance objectives for each block of instruction shall describe the expected behavior in action terms which are readily observable, measurable, and easily evaluated; i.e., "the student will identify, demonstrate, or perform."~~
    - c. The conditions - A description of the important conditions of instruction or evaluation under which the student learner will perform the stated behavior. ~~If not specifically stated it will be implied that~~ Unless specified otherwise, the instruction and evaluation will shall be in written or oral form.
  - 4.5. Instructors of Board-approved courses shall meet certification instructor proficiency requirements developed by the Department and approved by the Board. Instructors shall be qualified by education, experience, or a combination of both, and shall be certified affirmed by the Department as having the necessary qualifications prior to before delivering any instruction. In addition to basic certification these requirements, instructors of courses dealing with the proficiency skills of defensive tactics, physical conditioning, firearms, and medical emergencies shall be required to complete specialized training as developed by the Department and approved by the Board. Instructors shall use lesson plans as described in R13-4-205(B)(2) R13-4-205(C)(2).
- D. Academic requirements.**
1. ~~Cadets~~ Students shall be given any combination of written, oral, or practical demonstration examinations capable of measuring their attainment of the performance objectives in each approved lesson plan.
  2. Academy staff shall review examination results and academic progress with ~~cadets~~ students on a weekly basis. Academy staff shall ensure that ~~cadets~~ students are aware of correct responses.
  3. ~~Cadets~~ Students shall ~~successfully~~ complete all examinations ~~prior to before~~ graduating from the academy. To successfully complete a written or oral examination, a ~~cadet~~ student shall have a ~~minimum passing~~ score of at least 70% 70 percent.
    - a. ~~Scores of less than 70% For a student who receives a score of less than 70 percent, the academy shall require provide the cadet student to receive with~~ remedial training in areas of deficiency.
    - b. ~~Cadets shall be offered no~~ The academy shall not offer more than one re-examination per lesson plan.
  4. ~~Cadets~~ Each student shall qualify with firearms as specified in ~~R13-4-207 R13-4-205(C). Firearms qualification shall include:~~
    - a. 50-shot daytime or nighttime qualification course with service handgun. Minimum passing score shall be 210 points out of a possible 250 points;
    - b. 7-shot qualification course with service shotgun; and,
    - c. Target identification and discrimination course.
  5. ~~Cadets~~ Each student shall ~~also~~ meet success criteria described in the Board-approved curricula for the proficiency skills of self-defense, physical conditioning, and medical emergencies, as approved under ~~R13-4-205(B) R13-4-205(C).~~
  6. ~~Cadets~~ An academy shall provide cadets students who do not attend a lesson ~~shall be provided~~ with remedial training ~~prior to before~~ graduation.
  7. A Cadets student who must attends at least less than 90% 90 percent of the total hours of basic training ~~in order to shall not~~ graduate from the academy.
- E. Exceptions.** A ~~cadet student~~ shall not function as ~~an appointed~~ a state correctional officer except:

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1. As a part of a ~~an bona fide~~ exercise within the approved basic training program at an academy, ~~when if the cadet student~~ is under the direct supervision and control of ~~an appointed~~ a state correctional officer; or
  2. At the discretion of the Director, for the duration of an emergency situation including, but not limited to riots, insurrections, and natural disasters. ~~Cadets shall successfully meet the requirement of R13-4-205(D)(4) prior to carrying a firearm in the course of duty. A student shall not carry a firearm in the course of duty unless the student has successfully met the requirement of R13-4-205(D)(4).~~
- F. Waiver of required training. The Board ~~may~~ shall grant a complete or partial waiver of the required basic training, at the request of the Director, upon a finding by the Board that the best interests of the corrections profession are served and the public welfare and safety is not jeopardized by the waiver if:
1. ~~The An~~ applicant successfully completes a basic corrections recruit training course comparable to or exceeding, in hours of instruction and subject matter, the Board-approved basic corrections course and has a minimum of one year of experience as a correctional officer. Written verification of previous experience and training ~~must~~ shall accompany the application;
  2. ~~The An~~ applicant meets the minimum qualifications specified in R13-4-202;
  3. ~~The An~~ applicant successfully completes a comprehensive examination measuring comprehension of the basic corrections course. The examination shall be prepared by the Department and approved by the Board. It shall include a written test and practical demonstrations of proficiency in firearms, physical conditioning, and defensive tactics.
- G. Issuance of certificate. ~~Upon receiving notification from the academy that a cadet meets the training requirements specified in this Section or conditions of equivalency have been met under the provisions of R13-4-205(F), a Certificate of Completion shall be issued, provided that the provisions of R13-4-202 are met. Certificate of completion time-frame. The Board shall provide certificates of completion for each person named in the Director's attestation made under R13-4-204(A) within 30 days of Board receipt. The Board shall mail certificates of completion to the Director for distribution.~~

**R13-4-206. Continuing Training Including Firearms Qualification**

- A. Continuing training requirement. ~~On or after May 1, 1993, all appointed state correctional officers shall be required to receive eight hours of Board approved continuing training each calendar year.~~
1. A state correctional officer shall receive eight hours of Board-approved continuing training each calendar year beginning January 1, following the date the officer received certified status.
  2. A state correctional officer authorized to carry a firearm shall qualify each calendar year after appointment beginning January 1, following the date the officer received certified status, on a Board-approved course of fire. Firearms qualification shall not be used to satisfy the requirements of R13-4-206(B).
- B. Continuing training requirements may be fulfilled by ~~the following:~~
1. Advanced training programs, or
  2. Specialized training programs.
- C. Advanced training programs. The Department shall develop, design, implement, maintain, evaluate, and revise advanced training programs ~~which that~~ include courses enhancing a correctional officer's knowledge, skills, or abilities for the job that ~~person the~~ correctional officer performs. The courses within this program shall be approved by the Board and include advanced or remedial training in any topic listed in R13-4-205(C) ~~topics which the Department shall develop, design, implement, maintain, evaluate and revise.~~
- D. Specialized training programs. The Department shall develop, design, implement, maintain, evaluate, and revise specialized training programs ~~which that~~ address a particular need of the Department and target a select group of officers. The courses within this program shall be approved by the Board and include topics ~~which the Department shall develop, design, implement, maintain, evaluate, and revise. These courses shall be different from those found in the basic corrections training program or any advanced training programs.~~
- E. ~~The Director shall advise the Board of compliance with this rule as provided in R13-4-204(B)(3).~~  
Firearms qualification required. A correctional officer authorized to carry a firearm shall qualify to continue to be authorized to carry a firearm each calendar year beginning the year following the receipt of certified status by completing a Board prescribed firearms qualification course using a service handgun, service shotgun, and service ammunition, and a Board prescribed target identification and judgment course.
1. Firearms qualification course standards.
    - a. A firearms qualification course is:
      - i. A course prescribed under R13-4-205(C); or
      - ii. A course determined by the Board to measure firearms competency at least as accurately as those prescribed under R13-4-205(C).
    - b. All courses shall include:
      - i. A timed accuracy component;
      - ii. A type and style of target that is equal to, or more difficult than, those used under R13-4-205(C); and
      - iii. A success criteria that is equal to, or more difficult than, those used under R13-4-205(C).
  2. Firearms target identification and judgment course standards

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- a. A firearms target identification and judgment course is:
  - i. A course prescribed under R13-4-205(C); or
  - ii. A course determined by the Board to measure target identification and judgment competency at least as accurately as those prescribed under R13-4-205(C).
- b. All courses shall include:
  - i. A timed accuracy component;
  - ii. A type and style of target discrimination that is equal to, or more difficult than, those used under R13-4-205(C); and
  - iii. A success criteria that is equal to, or more difficult than, those used under R13-4-205(C).
- 3. All courses must be presented by a firearms instructor meeting the requirements of R13-4-205(C)(5).

**R13-4-207. Firearms Qualification Requirements Repealed**

- ~~A.~~ ~~A state State correctional officer officers who are is authorized to carry a firearm shall requalify each calendar year after appointment, on all an applicable Board approved courses course of fire. Firearms requalification may not be used to satisfy the requirements of R13-4-206.~~
- ~~B.~~ ~~Approved firearms qualification courses. A certified qualified instructor, as defined in R13-4-205(C)(4) R13-4-205(C)(5) shall administer the following components:~~
  - 1. ~~50-shot daytime or nighttime qualification course with service handgun. Minimum passing score shall be 210 points out of a possible 250 points.~~
  - 2. ~~7-shot qualification course with service shotgun.~~
  - 3. ~~Target identification and discrimination course.~~
- ~~C.~~ ~~Alternate firearms qualification courses. Equivalent firearms qualification courses may be administered if approved by the Board.~~

**R13-4-208. Reinstatement and Re-employment of State Correctional Officers**

- ~~A.~~ ~~State A state correctional officers officer who terminates terminates their employment may be reinstated re-employed by the Department within two years from the date of termination; if provided the individual person meets the requirements of R13-4-202 and R13-4-203. Reinstatement shall be made without any of the testing or academic attendance requirements as specified in R13-4-205.~~
- ~~B.~~ ~~State A state correctional officers officer who terminates terminates their employment may be re-employed by the Department if re-employment is sought within a period of more than two years; but less than three years; from the original date of termination, if the person meets the requirements of R13-4-202 and R13-4-203 and completes the waiver provisions of R13-4-205(F). shall be subject to the individual's ability to meet the requirements of R13-4-202 and R13-4-203 and complete the waiver provisions of R13-4-205(F).~~
- ~~C.~~ ~~A person who seeks re-employment more than three years from date of termination shall meet all the requirements of this Article.~~

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**PREAMBLE**

**1. Sections Affected**

R20-4-602  
R20-4-603  
R20-4-604  
R20-4-607  
R20-4-611  
R20-4-612  
R20-4-620

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Repeal

**2. The specific statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 6-123(2)

Implementing statutes: A.R.S. §§ 6-123(1), 6-123(3), 6-704, 6-709(A), 6-709(M), 6-710(1), 6-710(8)

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 3851, August 31, 2001

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**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: John P. Hudock  
Address: Banking Department  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018  
Telephone: (602) 255-4421, ext. 167  
Fax: (602) 381-1225  
E-mail: jhudock@azbanking.com

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

These Sections control the conduct of business in Arizona by Debt Management Companies. This rulemaking will accomplish the revisions promised to the Council in a five-year rule review report approved September 14, 1999. The Department will amend the Sections to remove obsolete provisions no longer enforced, streamline the writing, modernize statutory references, remove provisions that duplicate statutory language, remove pointless legalisms and passive constructions, remove obsolete forms, and make these Sections comport with modern rule writing standards.

**6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

The Department does not propose to rely on any study as an evaluator or justification for the proposed rule.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

A. The Banking Department

The revision of these Sections will have some beneficial economic effect on the Department. The rewriting of the Sections will make the rules easier for debt management companies to understand and, therefore, easier for the Department to enforce.

B. Other Public Agencies

The State will incur normal publishing costs incident to rulemaking.

C. Private Persons and Businesses Directly Affected

Costs of services will not increase to any measurable degree. Nor should these revisions increase any licensee's cost of doing business in compliance with these rules.

D. Consumers

No measurable effect on consumers is expected.

E. Private and Public Employment

The Department expects no measurable effect on private and public employment.

F. State Revenues

This rulemaking will not change State revenues.

**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: John P. Hudock  
Address: Banking Department  
2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018  
Telephone: (602) 255-4421, ext. 167  
Fax: (602) 381-1225  
E-mail: jhudock@azbanking.com

**10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

No oral proceedings are scheduled. The Department will schedule an oral proceeding on the proposed rule if it receives a written request for a proceeding within 30 days after the publication date of this notice, under the provisions of A.R.S. § 41-1023(C). Send requests to the Department personnel listed in this preamble's items #4 and #9. The Department invites and will accept written comments on the proposed rule or the preliminary economic, small business, and consumer impact statement. Submit comments during regular business hours, at the address listed in this preamble's item #9, until the close of the record for this proposed rulemaking. The record will close on the 31st day following publication of this notice, unless the Department schedules an oral proceeding.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

There is no material incorporated by reference in these rules.

**13. The full text of the rules follows:**

**TITLE 20. COMMERCE, BANKING, AND INSURANCE**

**CHAPTER 4. BANKING DEPARTMENT**

**ARTICLE 6. DEBT MANAGEMENT COMPANIES**

Section

- R20-4-602. Applications
- R20-4-603. Reports
- R20-4-604. Records
- R20-4-607. Budget Analysis
- R20-4-611. Advertising
- R20-4-612. Solvency and Minimum Liquid Assets
- R20-4-620. ~~Forms~~ Repealed

**ARTICLE 6. DEBT MANAGEMENT COMPANIES**

**R20-4-602. Applications**

- A.** ~~An applicant~~ Application for a debt management company license shall ~~send the department~~ be made by completing and filing with the Superintendent an application on the form ~~required~~ prescribed by the Superintendent ~~in R20-4-620.A. The department~~ In connection with its application, the applicant shall order a credit report; from a local credit reporting agency bureau, disclosing the credit history of the applicant's principals regarding the applicant, if an individual or if a trust, partnership or other entity, regarding the partners, trustees or managing agents thereof. The department shall direct the credit reporting agency to send the credit report directly to the Superintendent. The credit report must be sent directly to the Superintendent by the credit bureau. The applicant shall pay the cost of obtaining the credit report. A complete The application filed with the Superintendent shall include the credit report required by this Section and all of ~~be accompanied by the following:~~
1. The surety bond required by A.R.S. § 6-704(B);-
  2. The ~~A copy of the~~ fidelity bond required by A.R.S. § 6-704(D) ~~R20-4-606~~;-
  3. The nonrefundable application investigation fee and original license fee ~~described in~~ prescribed by A.R.S. § 6-706, and specified in A.R.S. § 6-126(A)(14);-
  4. A sample of the contract intended to be used by the applicant licensee;-
  5. Current financial statements as described in R20-4-604(A)(5);-
  6. A certified copy of the current articles of incorporation, by-laws, partnership agreement or other organizing governing documents used to form the applicant business entity; and under which the applicant proposes to conduct business.
  7. Statements of personal history ~~Personal History~~, on the form ~~required~~ prescribed by the Superintendent ~~in R20-4-1410, for each of the applicant's principals, principal officers officer, trustees trustee, partners partner, and or managing agents agent of the applicant.~~
  8. ~~A receipt indicating that the credit report required under R20-4-602 has been ordered and paid for.~~
- B.** A debt management company applying ~~Application by a licensee for approval to operate a branch office or use an agency shall send the department~~ be made by completing and filing with the Superintendent an application on the form required by the Superintendent ~~prescribed in R20-4-620(B).~~

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- C. A debt management company applying to renew a license shall send the department an application on the form required by the Superintendent. The applicant shall deliver the renewal application to the department on or before June 15th. A debt management company shall apply separately to renew the license of each authorized business location. With each application for renewal a debt management company shall include the renewal fee described in A.R.S. § 6-706 and specified in A.R.S. § 6-126(C)(2). Application for renewal of a license shall be made by completing and filing with the Superintendent prior to June 15th of each year an application for renewal on the form prescribed in R20-4-620(C). A separate application for renewal shall be filed for each office of the licensee for which it has been authorized to conduct business. Each application for renewal shall be accompanied by the renewal fee prescribed in A.R.S. § 6-706.
- D. The Department Superintendent may require additional information the Superintendent he considers necessary in connection with an any application under this Section rule.

**R20-4-603. Reports**

- A. Each debt management company licensee and each nonprofit corporation or association exempt from licensure under pursuant to A.R.S. § 6-702(4) or 6-702(5) 6-702, paragraph (4) or (5), shall send the department file with the Superintendent on or before August 15 of each year, an annual report of its the company's business and operations for each place of business during the previous preceding year beginning July 1st 1 and ending June 30th 30, using on the form required by the Superintendent prescribed in R20-4-620(D). A debt management company shall deliver its report to the department on or before August 15th.
- B. Each debt management company organized as a corporation corporate licensee shall send the department a copy file with the Superintendent copies of each all annual report and certificate of disclosure filed under the authority of A.R.S. §§ 10-202 or 10-1622 within 10 days of filing the report and certificate at the Arizona Corporation Commission. A debt management company shall send the department a copy that is date-stamped by the Arizona Corporation Commission, reports and certificates of disclosure filed with the Arizona Corporation Commission pursuant to A.R.S. §§ 10-125 and 10-128 respectively, which copies shall indicate the date the original was filed with the Corporation Commission and shall be filed with the Superintendent within 10 days of such filing with the Corporation Commission.
- C. Each debt management company licensee shall notify the department Superintendent of any change in its ownership or in the names of its the officers, directors, trustees, partners, or managing agents of the licensee within ten days of the such change.

**R20-4-604. Records**

- A. A debt management company All licensees shall keep and maintain books, accounts, and records adequate to provide a clear and readily understandable record of all its business activity, conducted by the licensee including without limitation: A debt management company may use an electronic recordkeeping system. The department shall not require a debt management company to keep a written copy of its books, accounts, and records if the debt management company can generate all information and documentation required by this Section within three days of the department's request for production of the records for examination or other purposes. A debt management company's books, accounts, and records shall include:
1. A file Files for each account containing:
    - a. A copy which shall include copies of all correspondence concerning the account;
    - b. Evidence evidence of the notice given to creditors of the debt management contract;
    - c. A subsidiary ledger ledgers disclosing all financial transactions concerning the account;
    - d. A copy copies of each all written statement statements of account given to provided the debtor;
    - e. The the original of the budget analysis required under R20-4-607; and
    - f. The the original of the contract between the debt management company licensee and the debtor, including all and any amendments thereto.
  2. A trust account general ledger, kept current daily, that reflects each reflecting all deposit deposits to and disbursement disbursements from the trust account. The trust general ledger shall be kept current on a daily basis.
  3. Each A reconciliation of the debt management company's licensee's trust account, prepared at least once a month.
  4. A general ledger, kept current monthly, that reflects each reflecting all of the licensee's financial transaction by the debt management company except those recorded in its trust account general ledger transactions other than transactions involving the licensee's trust account. The general ledger shall be kept current at least on a monthly basis.
  5. A financial statement Financial statements produced in accordance with generally accepted accounting principles at least once every three months, or more frequently if when directed by the Superintendent, that reflects reflecting the financial condition of the debt management company licensee in accordance with generally accepted accounting principles. The financial statement statements shall include at least:
    - a. A a balance sheet,
    - b. A statement of income and retained earnings, and
    - c. A statement of changes in financial condition, and
    - d. Appropriate appropriate footnotes that either:

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- i. Explain entries in the documents listed in subsections (a), (b), and (c);
  - ii. Contain material information not required or not reportable in documents listed in subsections (a), (b), or (c);  
or
  - iii. Contain other disclosures required by generally accepted accounting principles.
6. A record Adequate records of all pending litigation naming the debt management company as to which the licensee is a party. The debt management company shall keep, during the pendency of each case, a copy of the complaint, and a copy of any answer or motion responding to the complaint filed by the debt management company.
- B. All records or complete duplicates of records required under this Section rule may shall be maintained at the debt management company's licensee's office in Arizona. A debt management company may keep its records outside this state if it:
  1. Makes the records available to the Superintendent, for examination or other purposes, in this state not more than three business days after demand; and
  2. Allows its debtor customers to call toll free to obtain information from the records that is not available from the debt management company's office in Arizona
- C. Each debt management company licensee shall preserve its books, accounts, and records for the period of time required by prescribed in A.R.S. § 6-709, subsection (J) and § 6-710, paragraph (1).

**R20-4-607. Budget Analysis**

- A. A debt management company No licensee shall not accept an account unless it first concludes appears on the basis of a reasonable budget analysis reduced to writing that the debtor can reasonably meet the payments agreed upon by the debt management company licensee and the debtor. The debt management company's conclusion shall be supported by a written budget analysis kept in the company's records.
- B. The written budget analysis shall either be part of an application form or a separate document. The debtor shall date and sign the written budget analysis before the debt management company draws any conclusions from the budget analysis and shall be dated and signed by the debtor.
- C. The budget analysis shall disclose the disposable income available for payment to be paid to the debt management company licensee after the debtor pays its making allowance for the payment of the debtors reasonable and necessary living expenses including and all other payments required to be paid such as taxes, insurance, child support, alimony, and residential rent or mortgage payments rent or other payments on the debtors residence.

**R20-4-611. Advertising**

- A. Any advertising, communication or sales literature of any kind, published exhibited, broadcast for radio or television, or used directly or indirectly in connection with the sale of a licensee's services, shall be filed with the Superintendent at least five (5) days prior to its use. A debt management company shall send the department copies of all advertising, communication, or sales material at least five days before the company uses the advertising, communication, or sales material to promote the sale of the company's services. This requirement applies to every type of promotional material used, whether the company will publish, exhibit, broadcast, or personally distribute the material by any other method or medium.
- B. A debt management company shall not use advertising, communication, or sales material that contains No such advertising or sale material shall contain:
  1. A Any false, misleading, or deceptive statement about or representation with regard to the debt management company's services or charges to be performed by the licensee or the charges to be made therefor. A statement is a violation of this Section misleading and deceptive if the person making the statement does not omits to state a any material fact necessary in order to make the statement true, statements made in light of the circumstances under which it is they were made, not misleading ; -
  2. A claim, direct or implied, Any words or terms which might imply that the debt management company licensee consolidates debts or makes loans of money ; or -
  3. A schedule of payments in any form.
- C. A debt management company's advertising, communication, and sales material All such advertising and sales material shall contain:
  1. The correct name of the debt management company licensee exactly as it appears on the current license; and -  
The following legend, conspicuously displayed in at least 12 point type:  
"NOT A LOAN COMPANY."
- D. The department's failure of the Superintendent to object to the advertising, communication, or sales material filed with it him is not and shall not be shall not be considered nor represented as an approval of the material or the statements it contains contained therein.

**R20-4-612. Solvency and Minimum Liquid Assets**

- A. A debt management company shall not operate if it is insolvent. No licensee shall cause or permit itself to become insolvent. For purposes of this Section rule and A.R.S. § "insolvent" has the same meaning as in A.R.S. § 47-1201(23) 6-708,



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subsection (B), paragraph (4), a licensee “is insolvent” when its total liabilities exceed its total assets or it is unable to meet its obligations as they become due.

- B.** ~~A.R.S. § 6-709, subsection (A), requires that a licensee shall at all times maintain minimum liquid assets of at least \$500 in excess of its business liabilities and of its liabilities on account of monies received in the business of a debt management company. To determine compliance with A.R.S. § 6-709(A), that section all of a the debt management company's liquid assets held by the licensee as part of its business, plus all include funds held in its trust account. Liquid assets do not include goodwill and other intangible assets. A debt management company's total liquid assets shall exceed, by \$2,500.00, the total of all its business liabilities together with all balances held on account for debtors as reflected in the company's subsidiary ledgers, must exceed by \$500 all business liabilities of the licensee and all balances held on account for all of its debtors as reflected in its subsidiary ledgers. For purposes of this determination goodwill and other intangible assets shall not be used in computing total liquid assets.~~
- C.** The Superintendent may make rulings with respect to whether specific items may be treated as liquid assets for purposes of determining compliance with § 6-709, subsection (A).
- D-C.** Except as otherwise provided by this Section, rule or in a specific ruling by the Superintendent, a debt management company shall use generally accepted accounting principles to compute ~~shall be followed in computing~~ assets and liabilities under this rule.

**R20-4-620. Forms Repealed**

- A.** The form of the application for a debt management company license shall be as follows:

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STATE BANKING DEPARTMENT  
101 Commerce Building  
1601 West Jefferson  
Phoenix, Arizona 85007

APPLICATION FOR DEBT MANAGEMENT COMPANY LICENSE

INSTRUCTIONS: All information  
required by the application  
must be typewritten or printed.

(For Department Use Only)

DATE FILED \_\_\_\_\_  
LICENSE ISSUED \_\_\_\_\_  
LICENSE NUMBER \_\_\_\_\_  
RECEIPT NO. \_\_\_\_\_ AMOUNT \_\_\_\_\_

TO THE SUPERINTENDENT OF BANKS:

Application is hereby made for a license to engage in and carry on the business of a DEBT MANAGEMENT COMPANY, pursuant to Title 6, Chapter 6, Arizona Revised Statutes.

1. Name of Applicant: \_\_\_\_\_  
(Furnish corporate, trade or individual's name under which business is to be conducted.)
2. Address of principal Arizona office where business is to be conducted:  
\_\_\_\_\_  
(Street and Number) (City) (State) (Zip)
3. Mailing address (if different) \_\_\_\_\_
4. Telephone number of principal Arizona office \_\_\_\_\_
5. Is the applicant a \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_ Other.
6. If the applicant is not a corporation, describe the nature of the business entity on a separate sheet. If the applicant is a corporation, complete the following:
  - a. Name of the corporation \_\_\_\_\_
  - b. Place & date of incorporation \_\_\_\_\_
  - c. If a foreign corporation, date authorized to do business in Arizona \_\_\_\_\_
7. The name(s) and address(es), both of residence and place of business, of the applicant, principal officers thereof if a corporation, trustees thereof if a business trust, partners thereof if a partnership, and managing agent thereof, are as follows: (Insert the official capacity of the person in the business entity and the number of years such person has been engaged in the debt management business next to his name.)

a. _____ (Name)	_____
_____	(Capacity) (Yrs. in Bus.)
(Business Address)	_____
(Residence Address)	_____
b. _____	_____
(Name)	(Capacity) (Yrs. in Bus.)
_____	_____
(Business Address)	(Residence Address)
_____	_____
c. _____	_____
(Name)	(Capacity) (Yrs. in Bus.)
_____	_____
(Business Address)	(Residence Address)

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d.			
	(Name)	(Capacity)	(Yrs. in Bus.)
	(Business Address)	(Residence Address)	
e.			
	(Name)	(Capacity)	(Yrs. in Bus.)
	(Business Address)	(Residence Address)	
f.			
	(Name)	(Capacity)	(Yrs. in Bus.)
	(Business Address)	(Residence Address)	

(Continue on separate sheet, if necessary.)

8. Name and address of firm or agency which audits your financial records and provides accounting services:
- \_\_\_\_\_
- \_\_\_\_\_
9. Name and address of the officer or managing agent who is to have primary responsibility for the business to be conducted by the applicant:
- \_\_\_\_\_
- \_\_\_\_\_
10. State whether the applicant or any officer, director, trustee, partner or managing agent thereof has been convicted of any criminal offense other than a traffic violation. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, complete and attach Statements of Personal History for such persons.)
11. State whether the applicant, or any officer, director, trustee, partner or managing agent thereof has had a final judgment issued against him in a civil action on account of fraud, misrepresentation or deceit. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish complete details on separate sheet.)
12. State whether the applicant, or any officer, director, trustee, partner or managing agent thereof, has filed bankruptcy within the last ten years? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish complete details on separate sheet.)
13. State whether the applicant or any officer, director, trustee, partner or managing agent is interested in or connected with any other debt management company licensed by the Arizona Superintendent of Banks. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish details on separate sheet.)
14. State whether the applicant or any officer, director, trustee, partner or managing agent thereof is currently licensed to conduct the business of debt management in any other state. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish details on separate sheet.)
15. State whether the applicant or any officer, director, trustee, partner or managing agent thereof has at any time been licensed to conduct the business of debt management in this or any other state. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish details on separate sheet.)
16. State whether any application by the applicant or any officer, director, trustee, partner or managing agent thereof for a license to conduct the business of debt management has at any time been denied by this or any other state. Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, furnish

18. Attached to this application are: the bond required by A.R.S. § 6-704; a copy of the fidelity bond required by R20-4-606; checks for the nonrefundable investigation fee and original license fee prescribed by A.R.S. § 6-706; a sample of the contract intended to be used by the licensee; current financial statements as described in R20-4-604(A); a certified copy of the current articles of incorporation, by-laws, partnership agreement or other governing documents under which the applicant proposed to conduct business; Statements of Personal History for each principal officer, trustee, partner or managing agent of the applicant; and a receipt indicating that the credit report required under R20-4-602 has been ordered and paid for.

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS

Signature

(Notarial Seal) \_\_\_\_\_

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**B.** ~~The form of the application for approval of a branch office or agency shall be as follows:~~

101 Commerce Building  
1601 West Jefferson  
Phoenix, Arizona 85007

APPLICATION FOR BRANCH LICENSE OF A DEBT MANAGEMENT COMPANY

INSTRUCTIONS: All information required by the application must be typewritten or printed.

(For Department Use Only)

DATE FILED \_\_\_\_\_  
LICENSE ISSUED \_\_\_\_\_  
LICENSE NUMBER \_\_\_\_\_  
RECEIPT NO. \_\_\_\_\_ AMOUNT \_\_\_\_\_

TO THE SUPERINTENDENT OF BANKS:

Application is hereby made for a license to operate a branch office of a debt management company.

1. Name of Licensee making application:

\_\_\_\_\_  
(Name shown on license)

2. Address of proposed branch office:

3. Telephone number of proposed branch office:

4. Set forth the name and address of the officer or managing agent who is to have primary responsibility for the business to be conducted at the proposed branch office:

5. Attached to this application are a Statement of Personal History for the person identified under item number 4, a nonrefundable investigation fee of \$10.00 and a license fee of \$100.00.

VERIFICATION

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) SS

I \_\_\_\_\_, being duly sworn, depose and say that I have personal  
(Name of person signing application)

knowledge of the matters contained in and attached to this application and everything contained therein is true and correct to the best of my knowledge and belief; and that I have signed this application as \_\_\_\_\_  
(official capacity)  
of the above named applicant, having full authority to sign such application in said capacity.

\_\_\_\_\_  
Signature

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(Notarial Seal)

My commission expires \_\_\_\_\_

